January 20-590 Field f.
20 4.

Dismissed for want of jurisdiction.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~555.~~ ~~325~~ ~~326~~ ~~196~~ 24

THOMAS MURDOCK ET AL., PLAINTIFFS IN ERROR;

vs.

THE MAYOR AND ALDERMEN OF MEMPHIS ET AL.

IN ERROR TO THE SUPREME COURT OF THE STATE OF TENNESSEE.

FILED JULY 24, 1871.

Oct Jan 1874

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1 STATE OF TENNESSEE:

Pleas before the supreme court of said State for the western division thereof, at Jackson, on the 1st Wednesday after the 1st Monday in April, A. D. 1870. Present, the Hon. Alvin Hawkins, Andrew M'Lain, and George Andrews, judges, to wit:

Be it remembered that, heretofore, to wit, on the 22nd day of April, 1868, the following record was filed in the office of the clerk of the supreme court for the western division thereof, at Jackson, Tennessee, to-wit:

Chancery court of Memphis.

STATE OF TENNESSEE,
County of Shelby:

Pleas before the Hon. W'm H. Smith, the chancellor of the chancery court of Memphis, State & county aforesaid.

2 Be it remembered that, heretofore, to wit, on the 23rd day of November, A. D. 1865, Thomas Murdock et als., filed their bill of complaint vs. The Mayor and Aldermen of the City of Memphis, in the words and figures following, to wit:

To the Hon. W'm M. Smith, judge of the chancery court of Memphis:

THOMAS MURDOCK AND MARY C. MURDOCK, his wife, and J. Mason Campbell, of the city of Baltimore, State of Maryland; William D. Winchester and Sarah Winchester, of Madison County, Tennessee; John Marshall Winchester, Thomas F. Murdock and his wife Elizabeth C. Murdock, William A. Moale and his wife Mary F. Moale, and Andrew Parks Winchester, of Baltimore, State of Maryland; William Willing, of Clarksville, in said State of Maryland; Mary H. Willing, Levi Young, William W. Young, 3 Mary Young, Samuel D. Lynn and Catharine W. Lynn, his wife, and John W. Ganther and his wife Sarah R. Ganther, of said State of Maryland; Jesse W. Hoshall & Mary R. Hoshall of Georgetown, District of Columbia; Elizabeth Young, Mary Inglehart, formerly Mary Willing, Kate Arabella Watkins and her husband Thomas G. Watkins, William W. Morris, George Zeigler and Mary Zeigler, his wife, Jeremiah Nichols and his wife Agnes, of Howard County, in said State; Lydia Jenkins & her husband George Jenkins, of Baltimore County, in said State; and William Armour, of Memphis, Tennessee; Janet Lake, of Shelby County, Tennessee; James Armour, of New Orleans, State of Louisiana; Mary Davidson and her husband E. L. Davidson, of Memphis, Tennessee; G. A. Fumerstache and his wife Janet L., of same place; John Martin and wife Alice, of Arkansas; Anna Armour, Robert

B. Armour, and Walter B. Armour, the
4 two last of whom are infants under the age of 21 years, and who sue by their regular guardian and next friend, Emily B. Armour, all of Memphis; Mary Slocum and her husband Slocum, of County, State of Virginia; James Winchester, of Baltimore; William Winchester, of California; T. Donaldson and wife Elizabeth, of Baltimore, & George Winchester, of Memphis, Tennessee, representatives of William Winchester, the elder, dec'd; George Winchester, of Memphis, in said State of Tennessee; John Winchester and Bayliss Winchester, minors under the age of 21 years, residents of Sumner County, having no regular guardian, sue by their next friend, George W. Winchester; Helen M. Winchester, non compos mentis, who sues by her next friend, the said George W. Winchester; Maria Winchester, and Mary Winchester, of Sumner; A. R. Wynne & wife Almyra, of Sumner County;
5 Amanda Winchester, of the State of Missouri, and Louisa Rucker, of De Kalb County, Tennessee; Samuella Winchester, Thomas Irvin and Valeria, his wife, of Davidson County, Tennessee; Pierre A. Hardy & Ophelia, his wife, of New Orleans; Urilda *Mrilda* Smith & Mary Breedlow, of the same place; Maria Rowe & , her husband, of Illinois; James Breedlow, j'r, James Breedlow, s'r, Winchesta Breedlow, of New Orleans; Napoleon Breedlow, of Arkansas; H. W. Hills and Susan, his wife, of New Orleans; Henry Blood and Laura, his wife, of Vermont, and John Shelby, of the State of Texas,

against

THE MAYOR AND ALDERMEN OF THE CITY OF Memphis, a corporation of the State of Tennessee, & the county of Shelby, and the heirs of Seth Wheatley, dec'd, to wit, William and Arthur Wheatley, and Mary E. Wheatley, both of Memphis, of whom the last is a minor, and of whom Mrs. Jane E. Weaver, wife of
6 John C. Weaver, is guardian, also of Memphis; Hugh L. Wheatley, also a minor, of the same place, and having the same guardian; Mary Lou. Sanders, & Kate S. Sanders, minors, children of Kate S. Sanders, dec'd, formerly Kate S. Wheatley, who reside in the State of Alabama, & have no regular guardian; Sam'l Tate and James Elder, trustees, citizens & residents of Memphis, Tenn.

Complainants respectfully represent unto your honor that they are the real representatives of William Winchester, dec'd, of the State of

Maryland, and a portion of the representatives of James Winchester, deceased, and together with the representatives of Marcus B. Winchester, dec'd, constitute all the real representatives of the said James Winchester.

Complainants further show to your honors that said James Winchester & William Winchester, the elder, were each of them in-
7 terested in the five-thousand acre grant, known as the John Rice grant, on which the city of Memphis stands—the former of them, owning in fee, one-fourth; the latter, one-eighth part of the same. That many years since, to wit, about the year 1837, the Mississippi River formed a bar or batture in front of the city of Memphis, which, in the course of time, became the subject of controversy between the City of Memphis, one of the above-mentioned defendants, the proprietors of the Rice grant, of whom the said ancestors of complainants had in their lifetime been part, but who were then dead, and had been succeeded by complainants, and those under whom they claim, and certain persons who had assumed to enter said accretion or batture as vacant and unappropriated land—the last being designated as warrant holders.

8 These parties, by deed, in the month of July, 1844, entered into a solemn compromise and adjustment of the various conflicting claims, and the terms and conditions of said arrangement are fully shown as well as the considerations moving the parties to the said arrangement in the deed, a copy of which is herewith filed, and marked Exhibit "A," and prayed to be taken as part of this bill, but which need not to be copied.

By the recitals of the said deed, it will be seen that, in view of a great enterprize then effecting the interest of Memphis as a city, and the property of parties as landholders, it was judged more important on all hands to settle the controversy existing between the parties with the purpose of securing the establishment of a navy yard on the disputed territory, than for either to stand upon his legal rights.

9 In this view, and in the hope, on the part of all, that immense results would follow, each party was willing to forego their claims. A small portion of the property was appropriated to private use by partition of the property lying below Market street, in the city of Memphis, vesting it in Seth Wheatley as trustee, while all that portion of the property lying above said street, was dedicated to the use of the United States as a navy yard if they should establish one at that point as was confidently expected.

The said deed sets out in brief the inducements operating upon the minds of the parties to said instruments, in agreeing to this munificent compromise of their several claims, and the wisdom of their views is apparent at a glance. As a means of giving prestige to the city of Memphis, of drawing to her limits citizens engaged directly in
10 the said navy-yard trade, directly connected therewith in ship timber, lumber, spars, masts, and production of the forests, in cordage, sail, rigging, and materials, in irons & castings, directly used in the said navy yard and depot, & in the manufactories and trades ancillary to the same, with their employees, and the supplies for the same; in the manufactories of marine engines, anchors, and heavy iron of every kind, and in furnishing and fitting out of every description—in short for the purpose of giving the then growing city an impulse in the career of prosperity, no scheme could have been better calculated to carry out the end in view.

A memorial of the general assembly of the State of Tennessee, to

the Congress of United States presents the wide-spread feeling on the subject in a strong light, and reference is hereby had to the same as published in the acts of the session of 1844, and the same prayed to be taken as a part of this bill.

11 It will be seen that reference is made to a pamphlet published in said city of Memphis, which the legislature adopted as a part of said memorial, and which is also referred to as a part of this bill, to be filed when obtained.

At the succeeding session of the legislature, on the 23rd day of January, 1846, the legislature gave its formal consent to the establishment of the said naval depot as an accomplished fact, and ceded her rights to the premises, being the same disposed of in said compromise, thus giving legislative sanction to the disposition made of the property on behalf of the public.

To return to the deed of compromise: It will be seen that the said proprietors and warrant holders, being parties of the first and third parts, did give and grant to the city of Memphis, the parties of the second part, and their successors, forever, for the location of the naval depot aforesaid, all that part of the said property within the

12 limits of the town of Memphis, which lies north of Market street extended, & westwardly of the Mississippi Row, being a street between the said property and the improved part of the city.

At the same time provision is made for vesting the remaining property in Seth Wheatley, as trustee, and the conveyance actually made by said deed of compromise, and a conveyance further of the lands set apart for said naval depot, "in case the same shall not be appropriated for that purpose."

The deed then provides for the division of the property into lots, and for the division of the proceeds among the parties to said deed in the following manner:

One-half to the parties of the first part, the proprietors, one-sixth to the parties of the second part, and one-third to the parties of the third part, so that the said representatives of James & William Winchester were entitled, on a division, to one eight' of one-half each, of said proceeds.

The said portion immediately & certainly devoted to division

13 and use by the parties has been disposed of by said Wheatley, and no relief is sought in this case in relation thereto; but the part set apart for said naval depot has not been in anywise disposed of according to the provisions of said deed.

It will be remembered that it was only conveyed to the city for a specific purpose, for the location of the naval depot aforesaid, and in case the same was not so appropriated, it was conveyed to Seth Wheatley, to be divided in the proportion above mentioned.

The United States disappointed the reasonable expectations of all the parties, by taking the property for a time into use as a situation for a naval depot, erected buildings upon the same, and made various expenditures & improvements for that purpose; but before any of the objects for which said deed was made had been answered—before the property of the proprietors had been materially increased

14 in value, and before the influx in population, or the increase of business, or the establishment of manufactories ancillary to said establishment, had begun, they abandoned the same, and ceded the property back to the city of Memphis by public act of Congress.

The city of Memphis, by her corporate authorities, protested against the act as in violation of the faith of the Government, & insisted on

the United States retaining the same, and in good faith appropriating it as a naval depot, the only purpose for which it had been conveyed, and a copy of her acts in the premises is herewith filed as a part of this bill, (but the same need not be copied.) The Secretary of the Navy, as appears by his published report of that year, was prevailed upon by the act of the city to postpone for a time the sale of the personal property, fixtures, and machinery on the premises, to give time to appeal
15 to the Congress to retract the act of abandonment, but the appeal failed, and the property was finally abandoned and given up to the city. This act took place on the day of , 1854.

The city of Memphis has taken possession of the premises, & held the same ever since, and has in no wise accounted with these complainants for any portion of the same, or any rents arising therefrom, tho' large sums of money have been realized annually ever since, in rents and profits.

Compl'ts are informed and believe, that the city has made leases of said property to divers persons, which they do not seek to disturb, so far as they have been made with any reasonable care and providence, the same having been taken by the leas'es without any actual fraudulent intent, so far as is known at present by complainants. Said lessees are not therefore made parties to this bill, but these complainants will look to the city of Memphis for an account of rents received
16 and a disclosure of the various leases outstanding on the property made by the city since the property came to her from the United States.

Complainants charge that, by the failure of the United States to appropriate the said premises to the purposes intended, and by the final abandonment of any intention on the part of the United States ever to do so, the said property comes within the operation of that clause of the said deed of compromise which provides for the same being vested in Seth Wheatley, as trustee, for distribution among the parties entitled, or, in the event such is not the effect in strict law, that the property having been conveyed to the city for a purpose *pose* which has failed, the same is held by the city upon a trust resulting to the parties by whom the conveyance was made, and that the cession of the United Ststes to the city cannot effect the rights of complainants as against the said city of Memphis.

17 Complainants bring the heirs of said Seth Wheatley before the court as parties, the said Seth Wheatley having long since departed this life, that any interest they may have shall be divested by the decree of this hon'l court, there being now no purpose for which it is desirable to continue said trust.

For the purpose of more definitely settling and ascertaining the boundaries & limits of the said property, & any other facts which may be material, compl'ts will exhibit a copy of that part of the map of the city of Memphis, as registered in the register's office of Shelby County, book , page . Reference is also had to the printed map which he will exhibit, showing the effect of the said compromise deed in "affording an opportunity of doing business at or near the water's edge" as presented in said compromise deed; the lots shown on said map from Jefferson street
18 to Market, in front of the Mississippi River having been brought into use, and appropriated to the business purposes of the city by said compromise.

Complainants state that the matter appearing on the face of said map of 1829, as to the public landing designated thereon, is explained and adjudicated upon in an award of the Hon's W. B. Reese, Nathan Green,

& W. B. Turley dec's'd, late judges of the supreme court of the State of Tennessee, acting as arbitrators between the city of Memphis and the proprietors, a copy of the award being published by authority of the corporation of Memphis, in the appendix to the ordinances of to which is had, and the same prayed to be taken as part of this bill; & complainants charge that the same is a true copy of the said award. This award declares and adjudges that the said locality lying above street, and along the margin of the Mississippi River was not dedicated by the act of the original proprietors as a public land-
19 ing, but that the fact was indicated as an existing fact simply.

Complainants further state that they are informed and believe that the said city of Memphis has made some conveyance of the said property, in trust, to Samuel Tate and James Elder, of said city of Memphis, to secure certain bonds of the Memphis & Little Rock Railroad Company in the State of Arkansas, on said bonds, and they are advised that said trustees are proper parties to this proceedings, to the end that they may protect the interest of the said bond-holders, who are numerous and unknown to the parties complainant.

W'm Winchester, s'r, left as his devisees nine children, and the children of a deceased son, to wit, Lydia Moore, Mary Armour, Catharine Willing, Rebecca Campbell, W'm Winchester, George Winchester, David Winchester, Cha's Winchester, Lycurgus Winchester, & the children of Samuel Winchester.

20 Complainants J. Mason Campbell, and Mary Murdock are the sole heirs of Rebecca Campbell, who died many years ago intestate.

Complainants William D. Winchester & Sarah are the heirs of David Winchester. He died leaving four heirs at law, intestate: but his other two children, George & Barwell died intestate and without issue so that the said W. D. & Sarah are entitled to his whole estate.

Complainants John Marshall Winchester, Elizabeth C. Murdock, Mary T. Moale, & Andrew Parks Winchester are the only heirs at law of George Winchester.

Complainants W'm Willing & Mary Inglehart are children of Catherine Willing, who left also four other children & heirs: James W. Willing, who died intestate, August 13th, 1862, leaving complainant Mary H. his only child and heir; Elizabeth Willing, who intermarried with Levi Young, and died intestate on the 12th of April, 1855, leaving complainants, W'm W. Young, Levi Young, Mary Young, (now Hashell,) Catharine W. Young, (now Lynn), Sallie Young, (now Ganther,)
21 & Elizabeth Young; Henry Willing, who died on the 18th of December, 1853, leaving complainant Arabella R. Willing his only heir; & Rebecca Campbell Willing, who intermarried with James Morris and died October 9th, 1847, leaving complainant W'm M. Morris, Mary Morris, (now Zeigler,) and Agnes Morris, (now Nichols,) her only children & heirs at law.

Complainants Lydia Jenkins & W'm Armour are the only heirs of Lydia Moore, who died in 1827, intestate, leaving one child, her only heir; Maria, who intermarried with David Armour, & died intestate, leaving said complainants, Lydia Jenkins & W'm Armour, her only heirs.

Complainant Janet Lake is one of the children and heirs at law of Mary Armour, who died intestate, leaving also one other child and heir, James Armour, who is since dead; and complainants James Armour, Mary Davidson, Janett L. Fuerstacke, Alice Martin, Anna Ar-
22 mour, Robert B. Armour, & Walter B. Armour are his only children and heirs.

Lycurgus Winchester died intestate without issue. Samuel Winchester leaving one child, Anna, who married Jesse Willis, of Florida, and they are both dead, intestate and without issue, so that the descendants above-named of W'm Winchester are the heirs of the two last-named, father & brother.

William Winchester died intestate, leaving complainant James Winchester, W'm Winchester, Elizabeth Donaldson, & George Winchester his only heirs.

Gen. James Winchester died intestate about the year , leaving eleven children, to wit, Marcus B. Winchester, Maria, Selina, Valerius, Lucillius, Louisa, Almyra, Caroline W., James W., Helen M., & George W.

Maria Winchester intermarried with James W. Breedlove, j'r, and died intestate, leaving complainant Ophelia, who intermarried with Pierre Hardy; Murilda who intermarried with J. W. Smith, who
23 is since dead; Julien Breedlove (who died intestate) leaving Maria, wife of compl't Rowe, & James W. Breedlove, j'r, his heirs at law; Winchester Breedlove, and Napoleon Breedlove.

Selina intermarried with W'm L. Robinson, who is dead, and she is also dead, intestate, leaving complainant, Susan W. Hills her only heir at law.

Valerius died intestate, leaving Valerius Irwin his only child & heir.

Lucillius intermarried with complainant Amanda and died intestate, leaving one child by her which died unmarried, intestate, and without issue, leaving complainant Amanda its heir.

Complainant Louisa intermarried with Edw. Rucker who is dead.

Complainant Almyra intermarried with complainant A. R. Wynne.

Caroline M. intermarried with Orville Shelby, & both are dead, intestate, leaving complainant Laura, wife of Henry Blood, compl't, &
24 compl't John Shelby her heirs at law. James W. died intestate leaving complainants Maria, John, & Bayless Winchester his only children and heirs at law.

Helen M. & George W. are complainants. Marcus B. Winchester died having made his will by which he devised one-third of this property to his wife, who has since died leaving a will which has been proved, by which she devised her estate to J. B. Ferguson of Nashville, who has retained one-half thereof, and released the remainder to her brothers & sisters, to wit, Marshall M. Ferguson, Horace Ferguson, & Mildred Ferguson, who is since dead, intestate, unmarried & without issue, & Ellis.

The remainder of his estate the said M. B. Winchester gave to the complainants, Laura Nelson, Francis Vance, Louisa, & Loisélle Winchester, Valeria Richards, & Lesida Organ, together with Robert O., who died in his father's lifetime, intestate, without issue, and Selina who died in her father's lifetime, intestate, & without issue.

25 William Winchester, the elder, the ancestor of your complainants stated above as his real representatives, died many years since, to wit, about the year 18— eighteen hundred and disposing of his lands & property by will, a copy of which will be filed when necessary, by which, as will be seen, he vests in William & George Winchester certain powers over the real estate in virtue of which, they took control of the interest of said estate in the Rice grant, authorized the said M. B. Winchester to act for them & the estate, and the said M. B. Winchester did so act, as will be seen in the execution of the compromise deed, his act having been ever since recognized by the city, and acquiesced in by the said complainants.

& W. B. Turley dec's'd, late judges of the supreme court of the State of Tennessee, acting as arbitrators between the city of Memphis and the proprietors, a copy of the award being published by authority of the corporation of Memphis, in the appendix to the ordinances of to which is had, and the same prayed to be taken as part of this bill; & complainants charge that the same is a true copy of the said award. This award declares and adjudges that the said locality lying above street, and along the margin of the Mississippi River was not dedicated by the act of the original proprietors as a public land-
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The remainder of his estate the said M. B. Winchester gave to the complainants, Laura Nelson, Francis Vance, Louisa, & Loisélle Winchester, Valeria Richards, & Lesida Organ, together with Robert O., who died in his father's lifetime, intestate, without issue, and Selina who died in her father's lifetime, intestate, & without issue.

25 William Winchester, the elder, the ancestor of your complainants stated above as his real representatives, died many years since, to wit, about the year 18— eighteen hundred and disposing of his lands & property by will, a copy of which will be filed when necessary, by which, as will be seen, he vests in William & George Winchester certain powers over the real estate in virtue of which, they took control of the interest of said estate in the Rice grant, authorized the said M. B. Winchester to act for them & the estate, and the said M. B. Winchester did so act, as will be seen in the execution of the compromise deed, his act having been ever since recognized by the city, and acquiesced in by the said complainants.

The purpose for which the said powers were vested in said executors have long since been answered by the payment of both of the debts in the will mentioned, and the interest of the widow terminated by
26 her death in the year 182–. So that, as complainant is advised, the trust estate created in the said William and George has terminated, by operation of law, but if it should be otherwise as to that, the representatives of the said George & William are before the court in this cause, and any scintilla juris, which may have remained in them in their character as executors, may be extracted.

Complainants, heirs of Gen'l James Winchester, dec'd, are entitled, as above stated, to one-fourth of the original proprietary interest fund and property disposed of in said compromise, and in the navy yard.

Complainants pray that the parties named in the caption be made defendants to this bill, and that proper process issue as to the residents, and publication be also made as to the non-residents, requiring them to appear at the December rules, and answer this bill; and on
27 the hearing they pray that the city of Memphis be declared a tenant in common of the said property with these complainants, to the extent of their interest in the Rice grant, and in accordance with the rights established and agreed upon in said compromise deed; that the heirs of Seth Wheatley be required to convey the legal estate vested in them by virtue of said compromise, and the decease of their said father, or that the same be divested by decree, and that the same be vested in complainants in proportion to their interests; that the city be required to account for the rents and profits of said property from the time the same was received by her, with interest, &c.; and all such other and further and different relief as the nature of the case requires.

GEO. W. WINCHESTER,
HEISKELL, SCOTT & HEISKELL,
Sol's for Complainants.

STATE OF TENNESSEE, *Shelby County:*

Personally appeared before me, clerk and master, W'm Armour,
28 who made oath in due form of law, that the statements contained in the foregoing bill, as of his own knowledge, are true, and those on information of others he believes to be true.

W'M ARMOUR.

Sworn to and subscribed, Nov. 22d, 1866.

BENJ. COLEMAN,
Dep'ty Clk.

EXHIBIT "A".

I, Lucy L. Winchester, in good health and of sound mind & memory, do make this my last will and testament: After the payment of my legal debts, I give and bequeath the residue of my property to Jesse B. Ferguson, of the city of Nashville, to him and his heirs, forever; I likewise constitute and make said Jesse B. Ferguson my executor to this my last will, and moreover require that he shall give no bond for the execution of the same. In testimony of which I have hereunto
29 set my hand & affixed my seal this 15th day of May, 1860, at Muscoge Camp.

(Signed) LUCY L. WINCHESTER.

Witness:
K. R. HOPSON.
L. SHANKS.

Proven at the January term, A. D. 1861, and ordered to be recorded, Jauary 14th, 1861. JOHN P. TREZEVANT, *Clk*,
By R. L. FEIFE, *D. C.*

EXHIBIT "B."

ART. 2ND. To my wife, Lucy Leonora, I relinquish all claim whatever to her watches, jewelry, &c., & give & bequeath to her & her heirs all my household furniture, &c., stock, & horses, hogs, cattle, &c.; and likewise I give & bequeath to her, one full third of all the real estate, or other effects, which I may die possessed of in place of her right of dower, for which she shall sign a written relinquishment, the division to be made after first paying or setting effects enough to pay my debts.

ART. 3RD. All the rest and residue of my estate, real, personal, and mixed, I give and bequeath, share & share alike, to my eight
30 children, Laura, wife of John Nelson, of Arkansas; Robert O., Francis, wife of W'm Vance, of Ark.; Selina, Louisa, Loizelle, Valeria, and Lesida, and in case of the death of either of these children before my death without heirs, then his portion shall descend to the survivors of said children.

4TH. I do hereby nominate and appoint my long-tried and valued friend, J. S. Claybrook, of Williamson County, and my son-in-law, W'm Vance, Arka's, executors of this my last will and testament.

Memphis, May 25th, 1850.
(Signed) M. B. WINCHESTER. [SEAL.]

Witness:
W'M ARMOUR, jr.
DAVID ARMOUR.
ED. S. TODD.
B. W. ELLIS, July 21st, 1853.
H. G. SMITH, Oct. 30th, 1856.

Supl't confirming the above.

Altering only to add H. G. Smith as one of the executors, & giving Harriett C. Wray 5 acres of ground in Hopefield, Arkansas.

Proven, May 25th, 1857.

31 EXHIBIT C.

This indenture, made and entered into on this day of July, 1844, between John S. Claybrook, as executor of John Overton, dec'd, John C. McLemore, the heirs and devisees of James Winchester, dec'd, by their attorney, M. B. Winchester, the legal representatives of the said William & George Winchester interest, by M. B. Winchester, agent and attorney-in-fact, and Robertson Topp and W'm L. Vance, of the first part, the Mayor & Aldermen of the Town of Memphis of the second part, John D. Martin, Thomas M. Fletcher, and Walter D. Dabney, of the third part, & Seth Wheatley, as trustee, of the fourth part, witnesseth:

That, whereas divers questions have arisen between the three first-mentioned parties as to the ownership of the alluvial land formed by the Mississippi River on the western boundary of the tract of five thousand acres of land in Shelby County, Tennessee, granted by the State of North Carolina to John Rice, by grant No. 283, dated 25th of April,
1789, upon which said tract of land the town of Memphis was
32 laid out, the said parties of the first part being the original proprietors of the said town, or their representatives; and whereas

the location of the naval depot lately established by the United States at the said town, and the general interest of the citizens and property holders thereof requires that the tittle to that part of the said alluvial land which lies west of the public promenade and public landing as dedicated on the bluff of Memphis by the said original proprietors, shall be withdrawn from the litigators, so that no obstacle shall stand in the way of the commencement of the public works aforesaid, and that the threatened decline and removal of the town may be prevented, by affording an opportunity of doing business at or near the water's edge:

Now, therefore, in consideration of the premises, the said parties of the first and third parts, do give and grant unto the parties of the second part and their successors forever, for the location of the naval depot aforesaid, all that portion of the said alluvial land within the limits of the town of Memphis, which lies north of Market street extended, and westwardly of the Mississippi Row, and for the same consideration and the further sum of five dollars in hand paid, the parties of the first, second, and third parts do give, and grant, bargain,
33 sell, enefeof, and convey unto the said partys of the fourth part, and his heirs forever, all the rest and residue of the said alluvial land south of Wolf River; and also that part of the said alluvial land mentioned and designated for the naval depot, in case the same shall not be appropriated by the United States for that purpose: To have and to hold all and singular, the appurtenances thereunto belonging, or in anywise appertaining, except the right of ferriage and the right of wharfage, hereinafter reserved unto him the said party of the fourth part, and his heirs and assigns forever. In trust, however, that the said party of the fourth part shall cause the said alluvial land to be laid out into lots, extending the streets and alleys in a direct line to the river, and leaving a street of convenient, but specific width at the water's edge. The space between Washington and Poplar streets, inclusive of those streets, and extending from the bluffs to the water's edge, shall be left and appropriated for a public landing, to be well prepared and constructed with all proper grades and streets by the said parties of the second part at their own cost. The lots to be laid off by the said parties of the fourth part, shall be sold and conveyed by him at public or private sale, at his discretion, on a credit of two and three years, reserving a lien on the property for the purchase-money.

34 If the alluvial lands should hereafter increase by accession from the river, the new lands should be laid off in lots and sold, as hereinbefore provided, still extending the streets and alleys to the river, leaving a street in front, of convenient but specified width, at the water's edge, as provided above.

The proceeds of the sale of said lots, after paying all the expenses of executing this trust, shall, from time to time, be divided among the parties aforesaid, in the following manner, to wit: One half to the parties of the first part, one-sixth to the parties of the second part, and one-third to the parties of the third part. It is expressly understood and agreed, that nothing herein expressed shall be so construed as to effect the question of the right of mortgage between the parties of the first and second parts, and the right of ferriage as now claimed and exercised by the parties of the first part; the said parties of the third part relinquished all claim to the right of wharfage to the parties of the second part, and the right of wharfage along the whole front of the said alluvial land, including the streets, alleys, and public landings, shall stand on the same footing as if this indenture had not been made, and shall be determined by the rights and titles of the parties of the first and second parts, as they existed prior to this conveyance.

The said parties of the first and second parts agree to arbitrate the question of wharfage by submitting the decision of same to three
35 able jurists, to be selected by the governor of Kentucky, whoever he may be, when the selection may be required. Either of said parties may submit a copy of this instrument to the said governor of Kentucky, for the selection of said jurists, which shall be in writing, und' the great seal of the State, and if said jurists should refuse to act, the gove'nor may appoint others in like manner, as often as may be necessary. After the selection of the said jurists, the parties of the *parties of the* first part shall fix the time and place for the arbitration, and give sixty days' notice thereof to the parties of the second part, the said arbitrators shall determine which of the said parties of the first and second parts are, in law and equity, *are* entitled to receive the wharfage on the alluvial land aforesaid, (allowing to parties the full benefit of any legal advantage, as if it were a trial at law or equity,) and their award shall be binding and conclusive on the said party.

The unsuccessful party shall relinquish to the other all claims whatever to the said right of wharfage from the time of the arbitration, and the successful party shall pay all the costs and expenses of the said arbitration.

Testimony heretofore taken in any suit between any of the parties *of* this instrument, or others, relative to the land in question, may be read before said arbitrators, and other testimony may be taken, at any time, by either party, before a justice of the peace in any State, by giving reasonable notice to the other party; and suits involving the matter herein compromised, to be discontinued, each party paying his own costs.

36 The first and third parties waive all claim to the wharfage heretofore received, and which may be received to the time of final decision.

In testimony whereof the parties of the first and third and fourth parts have affixed their hands and seals, and the party of the second part have hereunto affixed their corporate seal, attested by the mayor and recorder of said town, on the day and year aforementioned to triplicates.

JOHN S. CLAYBROOK, [SEAL.]
Ex'r of John Overton dec'd,
By JOHN McLEMORE. [SEAL.]
M. B. WINCHESTER, [SEAL.]
Spe. Ag't & Att'y-in-fact.

Heirs & devisees of James Winchester, by
M. B. WINCHESTER, [SEAL.]
Spe. Ag't & Att'y-in-fact.

Legal representatives of W'm & George Winchester, by
M. B. WINCHESTER, [SEAL.]
Spe. Ag't & Att'y-in-fact.
ROBERTSON TOPP. [SEAL.]
W'M L. VANCE, [SEAL.]
By R. TOPP.

J. H. LAWRENCE, *Recorder.*

E. HICKMAN,
Mayor of Memphis.

WALTER D. DABNEY. [SEAL.]
JOHN D. MARTIN. [SEAL.]

Sept. 12th, 1844.
B. H. PRYOR.
B, A. MAYNARD.

SETH WHEATLEY, [SEAL.]
Tre's.

STATE OF TENNESSEE, *Shelby County:*

Personally appeared before me, J. H. Fuller, clerk of the county court of said county, John S. Claybrook, exec. of John Overton, dec'd, and of the within bargainors, with whom I am *I am* personally ; John McLemore, one of the within bargainors, by W. B. Winchester, his especial agent and attorney-in-fact, with whom I am personally ac-
37 quainted; the heirs and devisees of James Winchester, one of the said bargainors, by the said M. B. Winchester, special agent and attorney-in-fact, the legal representatives of William & George Winchester, of the within-named bargainors, by the said W. B. Winchester, special agent and attorney-in-fact; Robertson Topp, one of the within-named bargainors, with whom I am personally acquainted; W'm L. Vance, one of the said bargainors, by the said Robertson Topp; Edwin Hickman, mayor of Memphis, one of the said bargainors, with whom I am personally acquainted; Walter D. Dabney; John D. Martin, one of said bargainors, with whom I am personally acquainted, and Seth Wheat*hs*, trustee, one of the said bargainors, with whom I am personally acquainted; who acknowledge the within named , for the purposes therein contained.

Witness my hand, at office, Sept. 19th, 1844.

JOHN FULLER, *Clerk.*
By JAMES ROSE, *D. C.*

STATE OF TENNESSEE, *Shelby County:*

The foregoing trust deed was filed in my office, for registration, on the 7th day of January, 1845, at 4 o'clock p. m., and so noted in note book No. 1, page 176, and was duly recorded on the 10th of same month.

W'M P. REAVES, *Reg.*

STATE OF TENNESSEE, *Shelby County:*

I, Charles W. Johnson, register of said county, do hereby cer-
38 tify that the foregoing is a full, true, and perfect copy of the records in my office, book R, page 111, & on.

Witness my hand and seal of office this the 3d day of October, 1866.

CHARLES W. JOHNSON, *Register,*
By FRA'S W. WHITE, *D. C.*

EXHIBIT D.

The following resolution, offered by Dr. Fawlks, was add*o*pted, to wit:

Resolved, That the mayor advise the Secretary of the Navy, that the corporation is ready to carry out its proposition to the General Government, in relation to the establishment of a naval depot at this city, and enquire if the Government proposes to construct the canal, and supply itself with water power, or avail themselves of the offer of this corporation to furnish them with it.

At a called meeting of the board of mayor and aldermen of the town of Memphis, on Tuesday, 3d day of September, 1844—present, E. Hickman, mayor, & Messrs. Wright, Shanks, Cornell, Speckernagle, MaGavney, Armour, & Sappington, alder man:

A communication from Messrs. Adams, Rousseau, & Johnson, (Government agents,) was presented by the mayor, in which they stated their re'diness to receive proposals for ceding to the U. S. Government the piece of ground surveyed for the *sight* of a navy yard and depot.

Dr. Shanks offered the following resolution, in order to facilitate the perfecting of titles, &c.

39 *Resolved*, That Col. G. B. Locke and Judge V. D. Bang be authorized to make out the titles to all the private lots, and that W'm Speckernagle, esq., be added to the committee to procure titles, and that said committee have full power to determine the price and close all the purchasers of all the lots within the survey of navy yard.

Resolved also, That the right of way for the canal being now obtained by the corporation, the board bind the city to carry out the proposition to furnish the water-power, proposed and guaranteed to the Government, in the following resolution, to wit:

Resolved, That the corporation of the city of Memphis, State of Tennessee, propose, and bind said corporation, if the Federal Government locate the naval depot & dock yard upon the site fixed upon by the commissioners, at Memphis, to furnish the Government perpetually, from the time that may be agreed upon by the parties, two hundred horse-power, and as much more as may be deemed necessary for Government purposes, of water at the basin, at two-thirds the cost of steam power, p'r annum, and guarantee the right of way for conveying the water from the basin to the dock-yard, a distance of one hundred and twelve poles; and, on motion of Mr. Magavney, the mayor and Mr. Armour were authorized to wait on the Government commissioners, to ascertain from them their instructions as regards the accepting of the proposals of the corporation for furnishing them the water or not.

40 On motion of Mr. Mageveney, the board took up the business relating to the subject of conveying to the General Government the site for the navy yard.

The corporation not having received titles to all the ground deemed necessary for the work, the board authorized the mayor to dispatch a messenger for Mr. W. D. Dabney, in order to obtain from him any interest held by him to the ground desired, &c. On motion, also, Mr. Speckanagle was deputed to visit Mr. John D. Martin, at Holly Springs, Miss., for the same object.

On further motion, Messrs. Magevney, Armour, & Shanks were formed a committee to wait on the Government commissioners, on the subject of perfecting titles, and other necessary arrangements in the premises.

By Dr. Fawlkes, unamimously adopted: *Resolved*, That the mayor depute a suitable agent to Washington City to take on the evidences of titles to the property, for the U. S. Government, for the naval depot recently established at this place, and present the same to the proper department, and ascertain if they are all satisfactory to the Government.

At a call of the meeting of the board on Thursday, 12th December, 1844—present, E. Hickman, mayor, and Messrs. Allen, Speckernagle, Trigg, Wright, Cornell, Fawlkes, Looney, Magiveney, & Sappington, aldermen—the mayor explained that the board had met to receive a report from V. D. Barry, esq., on the subject of his visit to Washington City, for taking on the titles to the ground needed by the Gen-

41 eral Government for establishing a naval depot. The report showed that the Government had refused to receive the titles as presented, and the papers returned.

On motion of Dr. Sappington, the report was received and put on file. Dr. Foulkes then offered the following resolution, which was passed, to wit:

Resolved, That Mr. H. M. Cony, district attorney of the U. S. for the

western division of Tenn., be engaged to come to this city, and examine into the titles of the property proposed for the naval depot, and furnish his opinion of the same to the U. S. Government.

Resolved, also, That a committee be appointed to close the contracts for the property, which are still incomplete, wanted for the naval depot.

Mes'rs. Fowlkes and Looney were appointed for the committee.

Mr. Looney, being one of the committee on procuring titles and closing contracts for the property wanted for the naval depot, made a verbal report, in which he stated the difficulties the committee had to labor under in seeing all the parties interested, &c., to obviate which the following resolution was passed unanimously, to wit:

Resolved by the mayor and aldermen, That the committee appointed to obtain titles to the lots wanted for the naval depot be authorized and empowered to procure the services of a suitable person to go in search and get the titles to said property without delay.

Resolved, further, That the mayor furnish said committee with
42 all necessary money *for* to pay expenses on the purchase-money to said property.

THURSDAY, *Dec. 19th*, 1844.

The mayor reported to the board the difficulty of procuring titles to the lots wanted for the naval depot, by some of the holders refusing to take bonds at six months' date.

The following resolution was offered by Mr. Armour, which passed one reading, to wit:

Resolved by the board of mayor and aldermen of the town of Memphis, That this offer to the General Government, the depot site, free of all charge, provided they dispense with the 24 lots from Jackson street to Auction street, on the west side of Chickasaw street, guaranteeing to the Government the right of ways unto the depot at all the streets and alleys from said Chickasaw street to their line.

Resolved, That the committee appointed to close up the titles get the same completed and certified to in due form by the district attorney, and that one of the said committee be the bearer of the same to the Government, and solicit immediate appropriations to the work.

Resolved, further, That the engineer be instructed to draw a full plan of the same, to be sent to the Government.

Dr. Fawlkes offered the following, which was passed at one reading, viz:

Resolved, That the committee to procure the titles to the property for the naval depot purchase no lots except what may be connected
43 and lying together, beginning at lot No. 1, and at lot No. 24.

Resolved, That a committee be appointed to ascertain at what price the lots from Front row to Front alley, between Jackson and Market streets, can be purchased, and report the same to the next meeting of the board.

The board resumed the subject of the naval depot, when Dr. Fawlkes spoke in favor of changing the location for the site by procuring the lots south of Market street, and also presented a written proposition from Seth Wheatly, as trustee, to sell the said lots for that purpose.

Dr. Fawlkes offered the following, which was read and adopted:

Resolved, That the committee close the titles for the lots of D. Kennedy and the Rauslins.

Resolved, That the lots of D. Kennedy, Rauslins, and J. S. Claybrooks, ten in number, can be had for $3,450; and whereas, in the opinion of this board, that the remaining 14 lots are not worth more than $7,000,

be it therefore resolved, that the committee appointed to perfect titles are instructed to close the contract with Seth Wheatley, of this date, for 23 lots on Market street, on the best terms to be had. (But it is thought by this board that those 23 lots ought to be sold for more than $7,000,) provided the owners of the 14 lots of the 24 do not come forward and agree to sell them to the city for $7,500, which this board considers more than a fair sale value, within the period of five days.

44 *Resolved*, That the owners of the 24 lots coming in at once to the committee, and closing the original contracts, can do so at the prices originally agreed upon, provided the same be done at next Monday at noon, (12 o'clock m.)

The subject of the naval depot being again taken up, Dr. Fawlkes made some remarks, and was replied to by Dr. Sappington. The discussion was continued for a time by Mr. Looney, when Mr. Armour proposed the following resolutions, viz:

Resolved by the mayor and aldermen of the town of Memphis, That the committee appointed to close up the titles for the naval depot be instructed to take the deed of S. Wheatley for the 23 lots, and that the corporation make a deed for the whole, including the streets and bottom, and the front of the river to the water's edge, so as to keep the depot in the form wanted by the commissioners; and further, resolved that the committee go on to perfect titles, excluding the 24 lots west of Chickasaw street.

Resolved, further, That be appointed to proceed to Washington City at once, without delay, and submit the same to the Navy Department.

MONDAY, *Dec. 30th*, 1844.

The committee on titles for lots for the naval depot submitted a report in which was set forth many unlooked-for and serious difficulties in the way of obtaining clear titles to some of the lots.

45 The committee, however, reported considerable progress in the matter, with a flattering prospect of succeeding with the business.

The report was received and filed.

Dr. Fawlkes then offered the following resolution, viz:

Resolved, That F. P. Stanton, esq., be requested to go to Washington City, to bear the opinion of Col. McCarry, U. S. district attorney, together with the papers supporting our titles, to the Attorney General of the U. S.; and that he be clothed with full power and authority by the mayor and aldermen of the town of Memphis to do all things necessary and proper to facilitate the early operations of the naval depot establishment.

Resolved, That as it is still uncertain whether all the titles can be had necessary for the naval depot for the U. S. Government, and as the time specified by the committee has nearly expired, that the parties who have executed deeds, and holding conditional obligations, extend the time 30 days, and on refusal to give such extension, the committee be instructed to return the deeds.

JANUARY 6TH, 1845.

Mr. Looney also reported verbally for the committee on titles for the naval depot. He reported further progress, and expressed his belief that in a short time a deed would be presented to the Government which would be satisfactory, and further recommended to the board to

send an agent forthwith, with power of attorney from the mayor.

46 Dr. Fawlkes then proposed the following resolution, which was unanimously addopted, to wit:

Resolved, That the committee to perfect titles to the depot site close all outstanding contracts for the 24 lots embraced within the site, and bring, in the most speedy way possible, the titles to perfection, and present the same to the Government, as before directed by the board.

Also, the following ordinance was read and adopted, and the rule to lay over to the next meeting, being by motion suspended, the ordinance was read the second time, and unanimousty passed, viz:

Be it ordained by the mayor and aldermen of the town of Memphis, That the tract of land within the limits of the said town, selected by the U. S. as a site for a naval depot, bounded as follows, to wit: Beginning at the point on the Mississippi River where the southern line of Market street strikes said river; thence eastward, diagonally across Market street, to the point where the northern line of Market street intersects the western line of Chickasaw street extended; thence northwardly with Chickasaw street to the northern line of Auction street; thence with the northern line of *of* Auction street, to Wolf River; thence down Wolf and Mississippi Rivers, to the beginning, be, and the same is hereby, appropriated for the public purpose of establishing a navy yard as aforesaid, and that the title to the same, and of every

47 part of the same, be divested of the owners thereof, and vested in the U. S. of America.

Be it also ordained, That the owner or owners of any part of said property not heretofore purchased by the said mayor & aldermen, shall be entitled to compensation for his property hereby condemned for the public use, to full value thereof, and may recover the same from the said mayor and aldermen by action of debt before any tribunal having cognizance thereof, upon establishing his or her claim to any part of said property.

The following resolutions, also, were read and adopted, and, being read a second time, passed unanimously, to wit:

Whereas it is possible that there may be dif'iculty in procuring the supposed title of the minor heirs of James Winchester to the site of the naval depot in Memphis, their interest amounting to ($\frac{3}{88}$) three eighty-eight' parts; and whereas it is believed that the said heirs have no title to said property, and, if they have any, they will unite in a petition for a sale of it by a court of competent jurisdiction, now, therefore,

Be it resolved by the mayor and aldermen of the town of Memphis, That the mayor be empowered to execute to the U. S. Government a bond of two hundred and fifty thousand dollars, indemnifying them against all loss or damage which may accrue by reason of any failure of title to the site of said depot on account of claims of said minors, and the mayor also be empowered and instructed, when said interest shall be sold by decree, to purchase the same at whatever price.

48 We, Thomas Murdock and others mentioned in the bill as complainants, and F. W. Rayster, security, acknowledge ourselves indebted to the mayor and aldermen of the city of Memphis and others mentioned in the as def'ts, in the sum of two hundred and fifty dollars; to be void if the said Thomas Murdock et al., mention' in the bill as complainants *complainant* in a bill which has this day been filed in the chancery court of Memphis against the said mayor and aldermen of the city of Memphis and others mentioned in the bill as defendants,

shall pay all such costs as may be awarded against them by the court in its decree and orders in said bill.

This 22d day of November, 1866.

W'M ARMOUR. [SEAL.]
F. W. RAYSTER. [SEAL.]

49 State of Tennessee to the sheriff of Shelby County:

Summon the mayor and aldermen of the city of Memphis, W'm A. Wheatley, Mary E. Wheatley, Hugh L. Wheatley, Samuel Tate, and James Elder, and Jane E. Weaver, if to be found in your county, to appear before the chancery court of Memphis, at the court-house, in the city of Memphis, on the first Monday in January, 1867, then and there to answer the bill of complaint of Thomas Murdock and others named in the caption of the bill. A copy of which accompanies this writ.

Herein fail not and have you then and there this writ.

Witness Augustin Alsten, clerk and master of said court, at the office in the city of Memphis, this second Monday in November, 1866, and 91st year of American independance.

A. ALSTEN,
Clerk and Master.
R. J. BLACK,
D. C. & M.

(Endorsed on the back as follows:)

No. 1410. N. R. D. In chancery. Suppœn*ed* to answer Thomas Murdock et al. vs. Mayor and Aldermen of Memphis. Issued the 4th day of Dec'r, 1866. A. Alsten, C. & M.

Came to hand 4th day of Dec., 1866, and executed by reading the within to W. O. Lofland, mayor of Memphis, and bearing with him a copy of bill on the 13th of Dec., 1866, and to James Elder same date; and to Samuel Tate, Hugh L. Wheatley, Jane E. Weaver, Dec.
50 21st, 1866; W. A. Wheatley, and M. E. Wheatley are not to be found in my county.

The State of Tennessee to the sheriff of Shelby County:

Summon Mary E. Saunders, formerly Mary E. Wheatley, and her husband D. D. Saunders, if to be found in your county, to appear before the chancery court of Memphis, on the first Monday in March next, being the March *rolls* of the court, then and there to answer the bill of complaint of Thomas Murdock and others against the mayor and aldermen, and others, a copy of which was served upon the mayor of the city of Memphis.

Herein fail not and have you then and there this writ.

Witness Augustin Allison, clerk and master of said court, at the office in the city of Memphis, this second Monday in November, 1866, and 91st year of American independence.

A. ALSTEN,
Clerk and Master.
R. J. BLACK,
D. C. and M.

51 In the chancery court of Memphis.

THOMAS MURDOCK & OTHERS
vs.
MAYOR AND ALDERMEN OF THE CITY OF Memphis et al.

The seperate answer of the mayor and aldermen of the city of Memphis, a municipal corporation chartered by the legislature of Tennessee, to the bill of complaint filed in the above-stated cause against it and others.

Respondent saving, reserving, &c., for answer to said bill, says that its officers do not know that the complainants "are the real representatives of William Winchester, dec'd," and a portion of the representatives of James Winchester, dec'd, and together with the representatives of Marcus B. Winchester, dec'd, constitute all the real representatives of said James Winchester, dec'd, and having no knowledge of these matters, it can neither admit nor deny said allegation in complainants bill & demand strict and formal proof thereof.

52 Respondent believes that it is true, as charged by the complainants, that James Winchester and William Winchester were each interested in the 5,000 acres Rice grant, on which the city of Memphis stands, and that there was a controversy between the parties mentioned in complainants' bill, in reference to the accretions on batt*eau*, in front of the city of Memphis, and that the deed of July, 1844, was the result and fruit of a compromise made between said litigants & claimants of said batt*eau*. Respondent cannot certainly say that the copy of said deed filed as Exhibit "A," compl'ts bill, is a full, true, and accurate copy of the original deed, and the production of the original deed is required of *of* the same, *is* in the possession or subject to the control of either of said compl'ts.

Respondent however admit'ed that there was a deed executed by the parties mentioned at about that date, which contained terms, provisions, and conditions, similar to those contained in the Exhibit "A" to compl'ts bill.

Respondent refers to said original deed, or to a proper and correct copy thereof to be hereafter filed, for the terms and provisions thereof, and to its recitals for the motives and considerations which induced the several parties to execute said deed, and inasmuch as this respondent is unwilling to adopt and agree to the construction placed upon said deed by the complainants in their bill, and to the statements of motives and expectations of the parties as are in said bill expressed. Portions

53 of said bill containing these matters are dis'ented from by the respondent in so far as they do not strictly accord with the recitals and provisions of said deed, to which, respondent is advised, the court and parties must look for a solution of these matters and questions.

Respondent admits the adoption of the memorial by the legislature of Tennessee, on 11th January, 1844, and the passage of the act by the same legislature on the 23d January, 1846, referred to in complainants' bill, and in this connection, for the purposes of another point made in this answer respondent calls the attention of this hon. court to the fact that, by the said act of January 23d, 1846, the legislature of Tennessee assures and declares, that the Congress of the United States has established a

naval depot at Memphis, thus furnishing evidence that, as early as 1846, it was notoriously & publicly stated and understood that the property for which the complainants are suing in this cause, had at that date been appropriated by the United States for a naval depot—a fact which the complainants are now seeking by this bill to deny and disprove.

Respondent denies the allegation of the complainants' bill, that the property mentioned in the bill and deed of July, 1844, which was devoted to the establishment of a naval depot, was never appropriated by the United States for that purpose, as contemplated by the termes of the deed of July, 1844; and, on the contrary, respondent states
54 that said property was regularly and legally conveyed by the mayor and aldermen of the city of Memphis to the Government of the United States, in the year 184 , and by the authorities of said Government formally accepted; that, soon thereafter the United States created extensive and costly improvements, machinery, masonsonery, &c., &c., and to all intense and purposes appropriated said property to the purpose contemplated in the deed of 1844, and by reason of this appropriation, the property of the proprietors was naturally encreased in value, a considerable influx of population had been induced, and the growth, prosperity, and wealth of the city of Memphis was greatly increased as respondent believes, & which facts will be established in the progress of the suit by evidence and st'istics.

Respondent admits that the Congress of the United States, by act of Aug. 3d, 1854, ceded the property constituting this naval depot back to the city of Memphis, and that the city after protesting through its officers against the act, finally accepted the property according to the terms of its cession; but respondent denies that this cession and abandonment by the United States was made before any of the objects
55 for which said deed was made had been answered—before the property of the proprietors had been materially increased in value, and before the influx of population or the increase of business, or the establishment of manufactures auxillary to said establishment had began, as charged in said bill.

Respondent further states that the Congress of the United States, by its act of session, recognized the property as already appropriated to the purpose of a navy yard, and so it has been recognized by the mayor and aldermen of the city of Memphis by all of its acts; and, in 1857, they, by ordinance, authorized the appropriation of all the grounds and property known as the Memphis navy yard to the construction of the 1st section of the Memphis and Little Rock Railroad; and, in pursuance of said ordinance, said navy yard was, in the year , mortgaged to secure the payment of $300,000 of the bonds of said railroad, and that mortgage was duly placed upon the records of the county of Shelby.

Respondent further states that said navy yard was in possession and under command of the Naval Department of the United States for some years, and the jurisdiction of the State laws over said territory entirely excluded therefrom.

Respondent will by evidence establish before the hearing of this cause many other facts (if necessary) to show that this property was not only appropriated by the United States for the purpose mentioned in said deed, but that it was universally known and acknowl-
56 edged as having been appropriated in that way.

Respondent is advised that this "condition subsequent," having been performed, the property having been once appropriated to the

purposes of a navy yard, the title to the property vested absolutely under said deed, and that a subsequent abandonment of the property for such purposes was not a condition of said deed, and cannot defeat the title already perfected.

Respondent is further advised that these conditional estates are not favored, and that a court of equity will not lend its aid to divest an estate for the breach of a condition subsequent. And upon this ground *this ground* and for this reason, respondent demurs to complainants' bill, so far as it seeks such relief, and prays that it may have the benefit of the demurrer to the same extent as if it had been specially and finally filed.

Respondents admits that, soon after said property was finally ceded, and in the year 185 , it took possession thereof, including the valuable buildings and other improvements erected thereon by the United States, and has had the possession thereof, e'cept from June, 1862, up to , during which time the military authorities held and occupied a portion of it by force, and has received rents from said property, which have been mainly appropriated to the payment of the annual interest on the $300,000 of Memphis & Little Rock Railroad bonds, as prescribed by the terms of the mortgage hereinbefore referred to.

57 Respondent will, if necessary, du'ing the progress of this suit, exhibit an account of all the rents and profits received by it from said property. Respondent, further answering, admits that, in 185 , this navy-yard property was leased to various parties for a period of 38 years, and such lessees were in possession of said property at the time of the *a*ccupation of Memphis, in June, 1862, by United States military forces, and their possession (or that of most of them) was disturbed by said military authorities either by actual dispossession or by the forced collection of rents from them by said military authorities during the period aforenamed, and by reason of which the respondent has failed to collect the rents for that period, and will exhibit, if necessary, before the final hearing of this cause, the names of the lessees and the terms of their leasses, and the time they were disturbed in possession by this superior force; and this failure to collect arose from the fact that a portion of this property was in the military possession of U. S., but the right and title of respondents to all of said grounds, was never questioned or denied, and respondents were only temporarily excluded from the enjoyment of a portion of this property by superior force.

Respondent, further answering, says that it denies the construction placed upon said deed of 1842 by the complainants in this bill, not only in reference to the clause providing for the condition of the appropriation to the navy-yard purposes, but also upon the other point of a resulting trust.

Respondent denies that it holds said estate as trustee for the complainants, or that they have any interest in said property whatever.

58 And it further denies, under the circumstances of the case, even as presented by the complainant, any trust will result in favour of them.

Respondent is advised that because by the terms of said deed a beneficial engagement of this property by respondent is not excluded, & because there was a valuable consideration for the conveyance to respondent in said deed, a trust does not result on account of the failure of the special purpose for which the conveyance was made, even if said deed should be construed to be a conveyance of said property for a special purpose. For these causes, and other good and sufficient reasons,

respondent demurs to complainants' bill, upon this branch of the cause, and so far as it seeks relief grounded upon the idea of a resulting trust, and asks that it may have the benefit of said demurrer as if the same were specially and formally filed in the cause.

Respondent admits the conveyance to James Elder and Samuel Tate, trustees, as set forth in complainants' bill; and this conveyance is the mortgage hereinbefore referred to.

Respondent knows nothing of the deaths, marriages, and heirships of the complainants and their ancestors, as set forth in complainants' bill, and of these matters full, strict, and formal proof is required.

Respondent, further answering, states that that portion of the land included in the "naval depot," as designated in the maps of Memphis, which lies east of Promenade street & between Jackson and
59 Auction st's, (and possibly other portions thereof,) was conveyed to respondent by different parties, and under different conveyances, and to these portions of said "naval-depot" grounds complainants can have no pretense of title, because their ancestors and the other proprietors of Memphis have long since conveyed their title, mediately or immediately, to the parties who conveyed to respondent.

Respondent supposes that compl'ts do not design to embrace this portion of said property in their demand and suit, and if they do so respondent denies that it was embraced in said deed of 1844, & that compl'ts have any title to or any interest therein whatever.

Respondent, further answering, says that, since 1844, the property sued for has been continuously in the open adverse possession of the United States, (respondents' vendee,) & of respondents' tenants, except that, during the military occupation of Memphis, portions of said property were seized by the military authorities, as hereinbefore stated, but the right and title of respondent, nor the right of respondent as lessor, were not denied or interrupted thereby.

Respondent, therefore, states that it, together with its vendor, have had the peaceable, open, continuous, & adverse possession of said property, claiming it notoriously as their own for more than 20 years last past, and they now plead and rely upon all statutes and laws of prescription and limitation in force in the State of Tennessee, and especially do they plead a bar to complainants' right to recovery, sec 2763,
60 2764, & 2765 of the Code of Tennessee, and they claim that, by virtue of its possession and that of the United States, each holding under colour of title, the title of respondent to said property is absolute and undefeasible.

R. J. MORGAN, *City Att'y.*
ESTES, JACKSON & McDAVITT,
Def'ts' Att'ys.

CORPORATION OF THE CITY OF MEMPHIS.

In verification of the foregoing answer of the mayor and aldermen of the City of Memphis to the bill of Thomas Murdock et al. vs. Mayor & Aldermen of the city of Memphis, I, W. O. Lofland, mayor of the city of Memphis, this 1st day of July, 1867, signed my name and the seal of the city to be affixed.

W. O. LOFLAND, *Mayor.*

Attest:
D. R. RICHARD,
City Register.

61 In the chancery court of Memphis.

THOMAS MURDOCK ET AL.
vs.
MAYOR AND ALDERMEN OF THE CITY OF Memphis et al.

In the separate answer of Sam'l Tate and James Elder.

The respondents for answer to complainants' bill saith that they have interest in the controversy between complainants and defendants, but that the said ground described in compl't' bill as the navy yard's, was, in the year 1857, mortgaged by the *the* city of Memphis to secure certain bonds of the Memphis and Little Rock Railroad to the amount of $300,000, and by said mortgage these respondents were made trustees and held the legal title to said ground for the purpose of said trust, and, having no other interest in said suit, pray to be dismissed without cost.

R. J. MORGAN,
Sol. for D'f'ts.

The oath' of these respondents are waived.
HASKILL, SCOTT & HASKILL, *Sol'r.*

Answer filed 2d July, 1867.

To the Hon. W'm M. Smith, judge of the chancery court of Memphis:

62 Mary Ann Walker, John C. McLemore, Willo. W. McLemore, and Josephine Hays, respectfully show to your honor, by way of amendment to the bill of Mary C. Murdock et al. vs. The Mayor and Aldermen of the City of Memphis, to which suit they have been allowed to become complainants, that they are the sole heirs of John C. McLemore, deceased. That as such heirs they are entitled to an interest of one-eighth in said Rice grant, and are entitled to a like interest under said compromise deed. Said Josephine Hays intermarried with compl't Robert Hays; complainants join with the original complainants in the charges made in said original bill and in the prayers of said bill, and ask for the same benefits jointly with the same original complainants.
Filed June 2d, '66.

Order to permit Mary Ann Walker, Jno. C. McLemore to be complainants.

THOMAS MURDOCK ET AL.
vs.
THE MAYOR AND ALDERMAN OF THE CITY OF Memphis and others. } No. 1410. N. R. D.

In this case came Mary Ann Walker, John C. McLemore, Willoughby W. McLemore, Robert Hays & Josephine Hays, his wife, formerly Josephine Gahlson, and by leave of the , the complainants consenting thereto, plead their amendment to the bill in this cause, and *was* admitted to prosecute the same jointly with the original complainants in said suit, and to insert their names as such compl'ts, by way of amendment, in the original bill, they giving bond, with security for
63 costs; and said amentment is made accordingly.

Ent. M. B. No. 3. Dec. 31st, 1866. Page 568.

We, Mary Ann Walker, Jno. C. McLemore, Willo. H. McLemore, Robert Hays and Josephine, his wife,

The Mayor and Aldermen of Memphis and others, def'ts, in the case of Thomas Murdock and others vs. The Mayor and Aldermen of Memphis and others, No. 1410, N. R. D., in the sum of two hundred and fifty dollars, to be void if the said Mary Ann Walker, Jno. C. McLemore, Willo. W. McLemore, Rob't J. Hays and Josephine, his wife, (who have allowed to become compl'ts in said cause upon entering into bond of security for costs,)

complainant in a bill which has this day been filed in the chancery court of Memphis against the said

shall pay all such costs as may be awarded against them and the other compl'ts in said cause.

This 31st day of Dec'r, 1866.

MARY ANN WALKER AND OTHERS, [SEAL.]
By HIESKELL, SCOTT AND HIESKELL. [SEAL.]
CHARLES L. McLEMORE. [SEAL.]

64 *Order appointing D. D. Saunders guardian ad litem.*

THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF THE CITY OF Memphis and others. } No. 1410. N. R. D.

It appearing that Mary Lou. Saunders, Kate S. Saunders, & Mary E. Saunders are minors, without regular guardians, and that they have been regularly brought before the court as parties defendant by process of publication as to *non*-residents, and by subpœna to answer as residents, and that D. D. Saunders is a proper person to be appointed guardian ad litem for them.

It is further ordered that said D. D. Saunders be appointed guardian ad litem for said minors, and will defend for them in this case.

Ent'd H. M. B. No. 4, page 666. March 9th, 1867.

Answer D. D. Saunders, guardian ad litem, to bill of complaints.

The answer of Dudley D. Saunders, guardian ad litem of Mary E. Saunders, (formerly Mary E. Wheatley,) Mary Lou. Saunders, and Kate Saunders, infant defendants to the bill of complain*ants* of Thomas Murdock & others vs. *against* The Mayor and Aldermen of Memphis & others, pending in this honorable court.

Respondent for answer to the bill says he has no knowledge of the facts alledged therein, but is advised that his wards are made
65 defendants because they are the heirs of Seth Wheatly, deceased, which fact is true, and that the said Wheatly was the depos'tary merely of the naked legal title to the real estate in controversy, and that these wards have no beneficial interest therein; but of this he has no knowledge, and prays the court to protect whatever interest his ward may have in the present controversy. And having answered as fully as he is advised is material for him to answer, he prays, &c.

DUDLEY D. SAUNDERS,
Guardian Ad Litem.
By solicitors, MESS. JARRAGON & FRAYSER.

The oath is wa'ved to the answer.

HIESKELL, SCOTT & HIESKELL.

Filed July 12th, 1867.

THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF THE CITY of Memphis & others. } No. 1410. N. R. D.

It appearing to the court that subpœnas to answer *was* regularly served upon William Arthur Wheatly, Jane E. Weaver, & Hugh L. Wheatly, last of whom has attained his majority since the filing of the bill, more than five days before the present term of the court, and that they have failed to plead, answer, or demur to the bill, upon application of complainant, it is ordered that the bill be taken for confessed, and *and* set for hearing ex parte to them.

E. July 6th, '67. M. B. C. 27, & 8.

66 *Entry showing marriage of Ma'y E. Wheatly and Dudley D. Saunders, & for subpœna answer.*

THOMAS MURDOCK & OTHERS
vs.
THE MAYOR AND ALDERMEN OF MEMphis & others. } No. 1410. N. R. D.

The marriage of the defendant, Mary E. Wheatly, with D. D. Saunders being proven to have taken place since the institution of this suit, it is ordered that subpœna to answer be issued against the defendant, D. D. Saunders and Mary E. Saunders, returnable to the March rules, 1867, of this court.

Agreement of counsel.

5th. The will of W'm Winchester, the elder.—Exhibit E.

It is further agreed and admitted that, at the time the several various conveyances of the site of the navy yard were made by the proprietors and others, the parties were contemplating the perfection of the title to said property in the city of Memphis with a view to the conveyance by the said city to the U. S. Government, for the purpose of the navy yard, and it is admitted that Henry W. McCorry, esq., U. S. district attorney, examined the titles, and reported upon the titles to the Government, whose official duty it was made to report upon this question to the Government.

The transcript from the U. States Navy Department, "Exhibit
67 F," may also be read in evidence at the hearing.

The book marked "Secretary of Navy Reports," 1843, and the transcript marked Navy Yard Records may be read in evidence.

It is agreed that the allegations in am'd bill filed Sept. 30th, 1867, are all denied by defendants.

R. J. MORGAN, *City Att'y.*
HIESKELL, SCOTT & HIESKELL,
For Compl'ts.

Agreement of counsel.

THOMAS MURDOCK & OTHERS *vs.* MAYOR & ALDERMEN OF MEMPHIS. } N. R. D. 1410.

Whereas a doubt is suggested in the answer of the mayor and aldermen to the bill, that it does not ask relief as to the lots lying between Chickasaw and Promenade streets, included in the navy yard, it is agreed that if the relief prayed in said bill does not embrace lot No. 11, being one of the above-named lots, that it shall be considered as if embraced in, and *it* sought to be recovered by, said bill, by the parties or other representatives, who executed a deed of gift to this lot to the mayor and aldermen, a copy of which is on file in the above cause; but with the understanding that if the said lot No. 11 is not so mentioned or embraced in said bill as to authorize a consideration of
68 the right and title to the same, or interest therein, that the mayor and aldermen shall claim the benefit of the statute of limitation as a defence, as if the bill seeking to recover the same was filed of this date, to wit, the 1st day of February, 1868. And the same agreement as above is made and shall apply to the real estate embraced in the deed from John S. Claybrook, executor of John Overton, deceased, to the mayor and aldermen of Memphis, of date 21st January, 1845, a certified copy of which is on file in this cause.

The true intent being that this agreement shall super*ceed* the necessity of the claimants to the aforesaid land filing a bill asserting their rights to the same, and an answer from defendants denying the right and relying upon the defence of the statute of limitation, as well as every other defence made in their answer to the original bill.

But this agreement in nowise to prejudice the rights of these parties provided they are asserted to said lands in the original bill or agreement heretofore made in the cause.

Either party may take proof upon any matter arising as to said land, the same as if formal pleadings had been performed.

As to the other lots between Chickasaw and Promenade streets, numbering from one to 24, exclusive of No. 11, which is now claimed,
69 no claim is made in the present litigation. But no rights are waived as to future litigation.

It is agreed that either party may use properly certified deeds and all statutes, as if specially pleaded. The certified deeds to be used as the original deeds, with the same effect, and the "Congressional Globe" volumes may be used as evidence, and all reports to Secretary of Navy or to Congress, executive documents, &c., all which may be offered in evidence by either party, and all transcripts from city records of matters connected with the navy yard, from any records now in the city register's office, may be used by either party in evidence.

R. J. MORGAN, *City Att'y.*
HIESKILL, SCOTT & HIESKILL, *Att'ys.*

Filed Feb'y 1st, 1868.

Agreement of counsel.

THOMAS MURDOCK ET AL. *vs.* THE MAYOR AND ALDERMEN OF THE City of Memphis et al. } N. R. D. No. 1410. H. D. No. 77.

In this cause the presiding chancellor, Hon. W'm M. Smith, being

incompetent, the parties select Hon. Henry Ellett, a member of the Memphis bar, to preside as chancellor, & to hear, determine, and decide the cause, & this consent may be entered of record, & the decree
70 rendered by said *by said* special chancellor shall be as binding as if the same had been made by the regular presiding chancellor.

Memphis, March 23d, 1868.

R. J. MORGAN.
ESTES, JURKSON & McD.,
Sol. for Def't. Mayor & Aldermen of Memphis.
WINCHESTER & HATCHER,
GAULT & WADDELL, &
HUSKILL, SCOTT & HUSKILL,
Sol. for Comp'ts.

Agreement of counsel.

THOMAS MURDOCK ET AL.
vs.
MAYOR AND ALDERMEN OF THE CITY of Memphis.

It is agreed by counsel in this case, for complainants and defendants, that John Overton, John M. Lea & Elizabeth B. Lea, his wife, the legatees, devisees of M. B. Winchester, dec'd, whose names are appended to this agreement*—Hugh L. & Ann Brinkley, only heirs-at-law of Anne Brinkley, formerly Anne Overton, and daughter of John Overton, s'r, deceased, whose said mother having died many years since, may be made parties complainant in this cause, to have all the rights as such, as fully as if they had been made complainants to the original bill, and had asserted all the rights therein claimed to the property in controversy.

And that the defences already made by the answers filed in the
71 cause shall apply to them as fully as if they had been specially named in the pleadings. It is expressly understood and agreed, however, that the parties so named made complainants, shall be considered as having been made complainants of this date, so far as effects the statute of limitations, or any other defence which might be affected by the time when the bill was filed—August 15th, 1867.

August 15th, 1867.

HUSKILL, SCOTT & HUSKILL,
Att'ys for Compl'ts.
GANTT & WADDELL,
For Parties made Complainants by this Agreement.
R. J. MORGAN,
For Mayor & Aldermen City of Memphis, & other Defendants.

Filed August 24, '67.

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* Names of the legatees and devisees of M. B. Winchester: & John Nelson, William Vance, Charles Organ, Loiselle Winchester, Louise Winchester, Robert E. Richards and wife Valina, J. B. Furguson, Therese Louise Organ, (a minor,) by J. P. Millard, next friend; Lucy Williams & C. Williams, her husband; also Robert Hopefield, Agnes, Francis, Edgar, Mary, Arthur, & Stonewall Vance, minors, by J. P. Millard, next friend; Julius Nelson, and Marcus, Carence, & Edgar Lofton Nelson, minors, by next friend, S. P. Mallard.

72 *Agreement of counsel.*

THOMAS MURDOCK ET AL.
vs.
MAYOR & ALDERMEN OF MEMPHIS & others. } 1410.

It is agreed in this cause that the interest of William Winchester, s'r, of Baltimore, in the John Rice 5,000-acre tract, upon which the city of Memphis is now situated, was an undivided eighth; but it is not intended hereby to admit that those claiming to be his representatives in this suit have any interest in the lands known as the navy yard now in controversy.

Sept. 17th, 1867.

R. J. MORGAN,
Def't Sol.

In chancery court of Memphis.

THOMAS MURDOCK ET AL.
vs.
MAYOR & ALDERMEN OF THE CITY of Memphis. } No. 1410. N. R. D.

In this cause it is agreed the following certified copies of deeds and papers from the register's office of Shelby County, Tenn., may be filed & read as evidence at the hearing, in the same manner as the original might be read if they were on file; & that the defendants may rely upon and avail themselves of all defenses connected or founded upon either of said copies in as full a manner as if the matters and things
73 contained in or connected therewith were fully and legally pleaded by cross-bill, answer, or plea. Said copies are as follows:

1st. Deed from City of Memphis to U. S. (Exhibit A.)
2d. Deed of confirmation from Geo., Jas., and Helen Marr Winchester to M. B. Winchester & Mayor & Aldermen of Memphis. (Exhibit B.)
3d. Deed from John C. McLemore to Mayor & Aldermen of Memphis. (Exhibit C.)
4th. Deed from W'm Winchester to M. B. Winchester. (Exhibit D.)

We, John Overton, J. W. Lea, Eliz. C. Lea, et al., & George Gault, and W. L. Scott, acknowledge ourselves indebted to Mayor and Aldermen of Memphis et al. in the sum of four hundred & fifty dollars; to be void if the said John Overton et al., complainant in an amended bill, which has this day been filed in the chancery court of Memphis against the said Mayor and Aldermen of Memphis et al., shall pay all such costs as may be awarded against them by the court in its decrees and orders in said bill.

This 30th day of Sept., 1867.

JOHN OVERTON. [SEAL.]
JOHN M. LEA.
By GAULT AND WADDELL, *Def'ts.* [SEAL.]
W. L. SCOTT. [SEAL.]
GEO. GAULT. [SEAL.]

74 *Order allowing amended bill for John Overton, Jno. M. Lea, & others to be filed.*

THOMAS MURDOCK & OTHERS
vs.
MAYOR & ALDERMEN OF *of* MEMPHIS & OTHERS. } No. 1410.

Upon application of John Overton, John M. Lea and wife, Elizabeth, and the devisees of M. B. Winchester, deceased, leave is granted to file the amended bill of this date upon executing a bond for costs.

Ent'd Sept. 30, '67. M. B. C., p'ge 193.

The amended bill of John Overton, John M. Lea & Elizabeth Lea, his wife, of Davidson County, Tennessee; Hugh L. & Ann C. Brinkley, children and heirs at law of Anna Brinkley, formerly Ann Overton, daughter of John Overton, s'r, their mother having died before 1854; devisees of M. B. Winchester, deceased, namely: John Nelson, of Shelby County, Tennessee; W'm Vance and Charles Organ, of Arkansas, (who claim, as tenants by the county, their wives Laura Nelson, Francis Vance, & Lesida Organ, being the daughters and devisees of said M. B. Winchester, and having also departed this life leaving issue of the marriage with these complainants, respectively;) Loisilla Winchester, Louise Winchester, Rob't E. Richards and wife, Valena Richards, of Shelby County, Tennessee; J. B. Furguson, of Davidson County, Tennessee; Theresi Louise Organ, a minor, by J. P. Mellard, her next friend, of Ark.;
75 Lucy Williams & C. H. Williams, her husband, of Ark.; also, Robert Hopefield, Agnes, Francis, Edgar, May, Arthur, and Stonewall Vance, minors, by their next friend, J. P. Mellard, esq., of Ark.; Julius Nelson and Marcus, Clarance, & Edgar Loftus Nelson, of Shelby County, Tennessee, by next friend, J. P. Mellard, esq.

Complainants respectfully represent unto your honor that, on the 23d of November, 1866, Thomas Murdock and other complainants filed the original bill in this cause against The Mayor and Aldermen of Memphis and othe' defendants, to recover the interest of the said complainants in what is known as the navy yard, being certain real estate and improvements thereon, in the city of Memphis.

By agreement of counsel for these present complainants and the solicitor of the defendants, The Mayor & Aldermen & others, of date August 15th, 1867, and which was regularly filed as a paper in said cause of Thomas Murdock and others vs. The Mayor & Aldermen and others, on the 24th August, 1867, it was agreed that these present complainants might be made parties complainants in the cause, to have all the rights as such as fully as if they had been made complainants in the original bill, & had asserted all the rights therein claimed to the property in controversy.

Reference is made to this agreement of counsel on file in this cause.

This agreement of counsel was intended to be a substitute for a
76 bill to be filed by these complainants, and on answer thereto by the defendants, as will sufficiently appear from an inspection of the agreement.

It was omitted to be stated in this agreement that these complainants claimed the navy-yard property had, during all the time since the termination of the war, been held by other parties adversely to The Mayor & Aldermen of the City of Memphis; that the city had, in fact, been

ousted from the possession thereof before the termination of the war, and its right and title thereto denied by the parties holding possession, and had not been in the possession of the same, nor its right or title thereto recognized since that time.

It was by mere inadvertence that the insertion of this statement in the agreement of counsel was not insisted upon by your complainants' solicitors.

They now state the fact to be, that the United States Government has ousted the city of the possession of the property since some time prior to the termination of the late rebellion, and have denied all right and title in the City of Memphis and its assigns during all this time, and still deny the same, and the city have not held possession thereof from that time to the present.

They made this statement by way of amendment, because it is not stated in the agreement of counsel.

They further state that it is only within the last two months that these facts as above stated came to their knowledge, and they
77 were not known to their solicitors at the time the original bill was filed, nor until less than two months since.

These complainants also pray that the said Mayor and Aldermen may be compelled to account to these for the rents of the navy yard during such time as they have had the actual possession of the said property by themselves or tenants.

They pray that the defendants to the original bill be required to answer this amended bill, and for general relief; and as in duty bound, &c.

GAULT & WADDELL, &
HIESKELL, SCOTT & HIESKELL,
Solicitors.

(Copy.)

This indenture, made the fourteeth day of September, in the year of our Lord one thousand eight hundred & forty-four, between The Mayor and Aldermen of the town of Memphis, of the county of Shelby, and State of Tennessee, of the one part, and The United States of America, of the other part, witnesseth:

That the said Mayor & Aldermen, for and in consideration of the sum of twenty thousand dollars, to them in hand paid by the said United States of America, the receipt whereof is hereby acknowledged, hath
78 given, granted, bargained, aliened, conveyed, and confirmed, and by these presents do give, grant, bargain, sell, alien, convey, and confirm unto the United States of America, heirs and assigns *and assigns* forever, a certain tract or parcel of land situated, lying, and being in the county of Shelby, and of Tennessee, bounded as follows, to wit: Beginning at a point on the west side of Front street, at the distance of eighty-two and one-half feet from the east side, or in a line with the west side of Chickasaw street, and extending diagonally across Market street till its strikes low-water mark on the south side of Market street, on the Mississippi River, from the first point, upon a line with the west side of Chickasaw street to the northwest corner of Auction and Chickasaw streets; thence on a line at right angles with Chickasaw street, run'ing on the north side of Auction street, crossing Wolf River, and striking the Mississippi River at low-water mark; thence down the Mississippi with its meanders, at low-water mark, it terminates at its junction with the first line on the southwest corner of Market street.

And the said Mayor and Aldermen do hereby cede and relinquish to

the said United States of America all jurisdiction over said tract of land which they may possess by forse of the charter of their corporation, or otherwise, together with the free use of all adjacent streets, roads, ways, waters, and other eas'ments of what kind soever.

To have and to hold the aforesaid land, with all and singular the rights, profits, emoluments, hereditaments, and appertenances of, in, and to the same belonging, or in any wise appertaining, to the only proper
79 use and behoof of them, the said United States of America, and to their assigns, forever. And the said Mayor & Aldermen, for themselves and their successors, do covenant and agree to and with the said United States of America and their assigns the before-recited land and bargained premises they will warrant, and forever defend against the right title, interest, or claim of all and every person whatever.

In witness whereof the said Mayor and Aldermen have hereunto affixed their seal the day & year above written.

(Signed) E. HICKMAN,
Mayor of Memphis.

CORPORATION OF MEMPHIS, TENNESSEE, SEAL.

N. ROUSSEAU.
H. A. ADAMS.
W'M P. S. SANGER.

Signed, sealed, & delivered in the presence of—
A. H. LAWRENCE, *Recorder.*

I certify the above is a correct copy.

JAMES SMITH,
Chief of Bureau of Yards and Docks.

MARCH 16TH, 1867.

STATE OF TENNESSEE, *Shelby County, ss:*

Personally appeared before me Jno. W. Fuller, clerk of the county court of said county, Edwin Hickman, mayor of the corporation of Memphis, the within-named bargainor, with whom I am personally acquainted, who acknowledged the execution of the within deed for the purposes therein contained.

Witness my hand at office.

JNO. W. FULLER.
By JA'S ROSS, *Dep. Clk.*

[Rec'd State tax.]

STATE OF TENNESSEE, *Shelby County:*

The foregoing deed, with the clerk's certificate thereto, was this day truly recorded in my office, in bo'k S, page' 141 & 142.

June 25th, 1845.

W. P. REAVES, *Register.*

80 U. S. NAVY DEPARTMENT,
March, 19*th*, 1867.

I hereby certify that the annexed is a true copy of the original deed of conveyance to the United States by the Mayor and Aldermen of Memphis, Tenn, of the ground formerly occupied as a navy yard.

EDGAR T. WELLS,
Chief Clerk.

Be it known that Edgar T. Wells, whose name is signed to the above

certificate, is now, and was at the time of signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

In testimony whereof I have hereto subscribed my name, and caused the seal of the Navy Department of the United States to be fixed, at the city of Washington, this the nineteenth day of March, in the year of our Lord, one thousand eight hundred and sixty-seven, and the independence of the United States 91st.

{ NAVY DEPARTMENT, UNITED STATES OF AMERICA. SEAL. }

G. WELLS,
Secretary of the Navy.

Filed by def'ts March 10th, 1868.

(Copy.)

NAVY DEPARTMENT,
BUREAU OF YARDS AND DOCKS,
Washington, February 27th, 1867.

81 SIR: I have the honor to acknowledge the reference to the bureau of a letter dated 25th inst., from Hon'l J. W. Leftwitch, enclosing letter from R. J. Morgan, att'y, relative to the claim of "Winchesters" against The City of Memphis for property in that city; and in reply I would say that the records in the office show that the authorities of Memphis acquired the title from the proprietors of all the lands included in the bounderies of the navy yard, and by deed dated 14th September, 1844, conveyed the same to the United States for the consideration of $20,000, by a warrantee, which has no conditions, as the occupation of the land for particular and special purposes. The title papers were submitted to the Attorney General, who pronounced the title valid.

By act of Congress, approved August 5th, 1854, these lands covering the navy yard, with appurtenances thereto, were ceded to the Mayor and Aldermen of the City of Memphis, for the use and benefit of said city.

The above is all the information the records of the bureau give on the subject.

The papers referred are herewith returned.

Respectfully, your ob't serv't,
(Signed) JA'S SMITH,
C'f of the Bureau.

Hon. GIDEON WELLS,
Sect'y of the Navy.

Filed by df'ts March 11th, 1868.

82 (Copy.)

NAVY DEPARTMENT, *June 1st,* 1855.

Commander CHARLES T. PLATT, *U. S. Navy,*
Memphis, Tenn.

SIR: So soon as the sale of the public property, recently ordered by the Bureau of Yards and Docks, has taken place, the funds secured, and a watchman procured and placed in charge of such as may be re-

tained, you will regard yourself as detached from duty at Memphis, Tenn., and waiting orders.

I am, respectfully,

J. C. DOBBIN.

(Copy.)

NAVY DEPARTMENT, *January 27th*, 1846.

CAPTAIN: On the recommendation of the chief of the Bureau of Yards and Docks, you are hereby appointed to the command of the navy yard at Memphis, Tennessee, and you will proceed to that place as early as practicable, and enter upon the duties of this appointment.

I am, respectfully,

G. BANCROFT.

Captain E. A. F. LOWALETTE, *U. S. Navy*,
New Haven, Conn.

83 NAVY DEPARTMENT, *December 31st*, 1852.

SIR: You will proceed to Memphis, Tennessee, and assume the command of the navy yard at that place as a relief of Commander Nichols.

I am, respectfully,

JOHN P. KENNEDAY.

Commander CHARLES T. PLATT, *U. S. Navy*,
Baltimore, Md.

EXHIBIT F T.—*Agreement.*

U. S. NAVY DEPARTMENT, *February 19th*, 1868.

I hereby certify that the annexed are true copies from the official records of the Department.

EDGAR T. WELLS,
Chief Clerk.

Be it known that Edgar T. Wells, whose name*d* is signed to the above certificate, is now, and was at the time of so signing, chief clerk in the Navy Department, and that full faith and credit are due to all his official attestations as such.

{UNITED STATES OF AMERICA, NAVY DEPARTMENT. SEAL.}

In testimony whereof I have hereunto subscribed my name and caused the seal of the Navy Department of the United States to be affixed at the city of Washington, this the nineteenth day of February, in the year of our Lord, one thousand eight hundred and eight, and of the independence of the United States ninety-second.

G. WELLS,
Secretary of the Navy.

84 *W'm Winchester's will.*

Title. William Winchester's last will & testament.

In the name of God, amen.

I, William Winchester, of the city of Baltimore, in Baltimore County, and State of Maryland, being sick and weak in body, but of sound and

disposing mind, memory, and understanding, and being desirous to settle my worldly affairs, do therefore make and publish this, my last will and testament, in manner and form following, that is to say: Imprimus. I give, devise, & bequeath unto my sisters Elizabeth and Lydia, that part of my farm in Frederick County called White's Level, whereon they now reside, with the buildings & improvements, and appertenances thereto belonging, and also, with the privilege of cutting fire-wood, the right of pasturage, and other benefits and advantages, in the same manner they have heretofore enjoyed the same, to hold the same to my said sisters during their natural lives and the life of the survivor. And whereas, my said sisters had expended the sum of eight hundred dollars in improving that part of my said farm whereon they reside, it is my will and desire, and I do devise and direct that the said land shall *shall* be bound for the payment of the said sum of money to them or any person to whom they shall bequeath the same. Item. I give, devise, and bequeath all the rest, residue, and remainder of my estate, real and personal, & mixed, including the indisposed interest in the land above devised to my said sisters, unto *to* two sons, William Winchester & George Winchester, their heirs or assigns forever, in trust that my said
85 sons, William and George, or either of them, or the survivor, shall and may sell and dispose of all or any part thereof at such time, in such manner, and upon such terms as to them shall seem best and advisable, and the money arising from the sale to apply in the following manner, to wit: In the first instance, to pay and discharge the debt or sum of money due and owing by me to the president and directors of the Union Bank of Maryland, upon certain promis'ory notes discounted at said bank for my use and accommodation, and do particularly enjoin and direct my said sons, William and George, to be diligent in the execution of this trust in order that the said debt m'y be discharged as soon aspossible, without injury to my estate. Secondly, to pay and discharge the debts due by me to my brother David Winchester.

And from and after the payment of the aforesaid debts I give and bequeath to my dear wife all my personal estate, to hold the same to her, her executors, administrators, and assigns forever; and it is my will and desire, and I do desire that my said sons, William and George, and their heirs, shall permit my dearly beloved wife to receive the rents and profits, and enjoy the use of real estate during her natural life, and after her decease then the residue of my real estate be divided into ten equal parts. One-tenth part I devise and bequeath to Lydia Moore and her heirs. One-tenth part whereof I devise and bequeath to Mary Armour, and her heirs. One-tenth part whereof I devise & bequeath to Catherine Welling and her heirs. One-tenth
86 part whereof I devise and bequeath to Rebecca Campbell and her heirs. One-tenth part whereof I devise and bequeath to William Winchester and his heirs. One-tenth part whereof I devise and bequeath to George Winchester and his heirs. One-tenth part whereof I devise and bequeath to David Winchester and his heirs. One-tenth part whereof I devise and bequeath to Charles Winchester and his heirs. One-tenth part whereof I devise and bequeath Lycurgus Winchester and his heirs. Also, one-tenth whereof, I devise and bequeath to my two grandchildren, Samuel Winchester and Ann Winchester, children of James *of James* Winchester, dec'd, to be equally divided between them and their heirs. And it is my will and desire, and I do accordingly devise, that my real estate shall be sold, in the first instance, to pay the aforesaid debts due the president and directors of the Union Bank of Maryland, and David Winchester in exonoration of my personal estate; and that

the personal estate shall not be sold unless the proceeds of the sale of the real estate should be inadequate to pay the said debts.

And lastly, I do hereby constitute and appoint my two sons, William Winchester and George Winchester, to be executors of this my last will and testament, revoking and annulling all former wills by me heretofore made; satifying and confirming this, and none other, to be my last will and testament.

In testimony whereof I have hereunto set my hand & affixed my seal, this the eighteenth day of March, in the year of our Lord eighteen
87 hundred & twelve.

(Signed) WILLIAM WINCHESTER. [SEAL.]

Signed, sealed, published and declared by William Winchester, the named testator, as and for his last will and testament, in the presence of us who, at his request, in his presence, and in the presence of each other, have subscribed our names witness thereto.

SOLOMON BETTS.
W'M JESSUP.
HENRY PAYSON.

BALTIMORE COUNTY, *to wit:*

On the second day of May, 1812, came Solomon Betts, William Jessup, and Henry Payson, subscribing evidences to foregoing last will and testament of William Winchester, late of said county, deceased, and made oath on the Holy Evangelist of Almighty God, that they did see the testator sign and seal this will; that they heard him publish, pronounce, declare the same to be his last will and testament; that, at the time of his so doing, he was, to the best of their apprehensions, of sound mind, memory, and understanding, and that they subscribed their names as witnesses to the will in his presence, at his request, and in the presence of each other. Sworn to in open court.

Test: WILLIAM BUCHANAN, *Reg'r.*

In testimony that the aforegoing is a true copy taken from the records thereof remaining in the register of wills office for Baltimore County in liber W. B. N. I., folio 235 & '6, I have hereunto set my hand,
88 affixed the seal of my office, this twentieth day of March, in the year eighteen hundred and nineteen.

W'M BUCHANAN,
Reg'r of Wills for Baltimore County, Maryland.

I, Owen Dorsey, presiding justice of the orphin's court of Baltimore County, in the State aforesaid, do certify that the foregoing attestation by W'm Buchanan, register of wills for said county, is in due form. Given under my hand and seal at the city of Baltimore, this twentieth day of March, in the year of our Lord eighteen hundred and nineteen, & of the independence of the United States (43) fo'ty-third.

OWIN DORSEY. [SEAL.]

STATE OF TENNESSEE,
Shelby County:

I, Charles W. Johnson, register of said county, do hereby certify that the foregoing is a full, true, and perfect copy from the records in my office. Registered about the month of February, 1822, book letter H, pages 89 & 90. Witness my hand at office this 1st day of May, 1866.

CHARLES W. JOHNSTON, *Register.*

No. 1730.—*M. B. Winchester's will.*

The following is the disposition I wish, and do hereby desire and require, to be made of my estate in case of my death.

89 It is my desire that my executor, to be hereinafter appointed, proceed to settle, as fast as they conveniently can without prejudice to the same, and if my personal effects be found insufficient to settle my debts, that they be authorized to sell any part or portion of my real estate to effect the said object in a reasonable time.

2d. To my beloved wife, Lucy Leonora, I relinquish all claims whatever to her watches, jewelry, &c., and give and bequeath to her and her heirs all my household furniture, &c., stock of horses, cattle, hogs, &c., & likewise I give and bequeath one-third of all the real estate and other effects which I may die possessed of place of her right & dower, for which she shall sign a written relinquishment; the division to be made after first paying or setting apart effects enough for the payment of my debts.

3d. All the rest of my estate, real, personal, and mixed, I give and bequeath, share and share, to each of my eight children: Laura, wife of John Nelson, of Arkansas; Robert A.; Frances, wife of W'm Vance, of Arkansas; Selvina, Louisa, Lousilla, Valena, and Lesida; and in case of the death of either of these children, before my decease, without heirs, then his or her part or portion shall de'cend to the survivor survivors of their children.

4th. And I hereby nominate and appoint my long-tried and valued friend, J. S. Claybrook, of Williamson County, and my son-in-law,

90 W'm Vance, of Arkansas, executors of this my last will and testament.

Memphis, May the 25th, 1850.

M. B. WINCHESTER. [SEAL.]

Witness—
W'M ARMOUR, JR.
DAVID ARMOUR.
EDWIN S. TODD.
B. W. ELLIS, July 21st, 1850.
H. G. SMITH, Oct. 30th, 1856.

I, M. B. Winchester, do hereby declare that the will which I made several years since is the only true will which I made, and all other wills which may be found in correspondence with it are a copy of my genuine will; and the only change which I desire to make in it is to appoint H. G. Smith one of my executors, and beg that he will accept the same.

M. B. WINCHESTER. [SEAL.]

Witness—
ERASMUS ROSE.
HARRIET C. WRAY.
HENRY G. SMITH, Oct. 30th, '56.

Oct. 30th, '56. I emancipate the slaves Harry and Betsy. To take all proper steps in regard to making them free, and secure their emancipation and freedom, I give Harriet C. Wray a five-acre lot in Hopefield, Arkansas; the lot to be selected by my executors.

Oct. 30th, '56.

M. B. WINCHESTER. [SEAL.]

HENRY G. SMITH.
W'M VANCE, JR.
HENRY S. KING.

91 Part proven at the February term, and part proven at the May term, 1857, and ordered to be recorded May 15th, 1857.

JOHN P. TREZEVENT, *Cl'k.*
H. S. THOMAS, *D. C.*

No. 2156.—*Lucy L. Winchester's will.*

Lucy L. Winchester, being of good health and of sound mind and memory, do make this my last will and testament:

After the payment of my legal debts, I give and bequeath the residue of my property to Jessee B. Furguson, of the city of Nashville, to him and his heirs in fee forever. I likewise make and constitute said Jessee B. Furguson my executor to this my last will, and *never* require that he shall give no bond for the execution of the same.

In testimony of which I hereunto set my hand, and affix my seal, this 15th day of May, 1860, at Muscoge Camp.

LUCY L. WINCHESTER. [SEAL.]

Witness—
K. R. HULSSUR.
L. SHANKS.

Proven at the January term A. D. 1861, and ordered to be recorded the 14th day January, 1861.

JOHN P. TREZEVENT, *Cle'k.*
By R. S. FIFE, *D. C.*

Exhibit "D" to agreement of parties.

William Winchester to M. B. Winchester. Copy deed.

Indenture made the eight' day of January, 1845, between William Winchester, surviving executor of William Winchester, deceased,
92 of Baltimore, Maryland, of the one part, and Marcus B. Winchester, of Shelby County, Tennessee, of the other part:

The said surviving executor aforesaid, by virtue of the power in him vested by the will of said deceased, and in pursuance of a contract dated 11th day of March, 1837, made by the said William and his co-executor, George Winchester, since deceased, with the said Marcus B. Winchester, and for the consideration made in said contract, which will be duly registered, doth give, grant, enfeoff, and convey to the said Marcus B. Winchester, and his heirs and assigns, all the right, title, and interest of the said William Winchester, deceased, and of the said executor, in and to the lot of ground in and near Memphis, selected as the site of the naval depot of the United States of America, and described as follows, to wit:

Beginning at the point on the Mississippi River at which the southern line of Market street, in the town of Memphis, strikes the river; thence diagonally crossing Market street to the point where the northern line of Market street intersects the western line of Chickasaw street extended; thence northwardly along the western line of Chickasaw street to its intersection with the northern line of Auction street; thence westwardly with the northern line of Auction street, crossing Wolf River to the Mississippi River; thence down the Mississippi River to the begin'ing.

93 In testimony whereof the said William Winchester, surviving executor aforesaid, hath hereunto set his hand and affixed his seal on the day and year first above written.

W'M WINCHESTER,
Surviving Executor of W'm Winchester, deceased.
W'M ARMOUR, *Att'y.*

Witness—
FRED. R. STAUNTON.
W. N. STAUNTON.

STATE OF TENNESSEE, *Shelby County:*

Personally appeared before me, John W. Fuller, clerk of the county court of the said county, W'm Winchester, surviving executor of W'm Winchester, dec'd, the bargainer within named, by W'm Armour, his att'y, with whom I am personally acquainted, who acknowledged the within-named deed for the purposes therein contained.

Witness my hand at office July 11th, 1845.

JOHN W. FULLER, *Clerk.*
By JA'S ROSE, *D. C.*

Rec'd State tax.

STATE OF TENNESSEE, *Shelby County:*

The foregoing deed was filed in my office for registration on the 14th day of July, A. D. 1845, at 8 o'clock a. m., and so noted in note-book No. 1, page 208, and was duly recorded on the same day.

W. P. REAVES, *Register.*
By WARREN WOODSON, *D. R.*

STATE OF TENNESSEE, *Shelby County:*

I, Charles W. Johnson, register of said county, do hereby certify that the foregoing is a full, true, and perfect copy from the record in my office, as recorded in book No. *S*, page 202 & 203. Witness my
94 hand and seal of office at office this 3d day of February, 1868.

RECORDER OF SHELBY COUNTY, TENN.

CHARLES W. JOHNSON,
Register.

Exhibit D to agreement of parties.

Exhibit "B" E.—Agreement.

Indenture made and entered into on this the 1st day of Jan'y, 1845, between George Winchester, James Winchester, and Helen Marr Winchester, (being, with others, the heirs of James Winchester, deceased,) of the county of Sumner, and State of Tennessee, of the one part, and Marcus B. Winchester and the Mayor and Aldermen of the City of Memphis of the other part, witnesseth:

Whereas the said Marcus B. Winchester, for the heirs and devisees of said James Winchester, dec'd, by deed of compromise dated in July last, united with the original proprietors of the town of Memphis and with John D. Martin, Walter D. Dabney, & Thomas M. Fletcher in conveying to said Mayor and Aldermen certain grounds in and near Memphis as a site for a naval depot about to be established by the United States; and whereas some doubts have been entertained as to the power

of said Winchester to execute said instrument: Now, therefore, this indenture witnesseth that the said George, James, and Helen Marr Winchester do hereby ratify and confirm the acts of the said Marcus B. Winchester in the matter aforesaid; and in all instances in which
95 the said Marcus B. Winchester hath sold or conveyed any part of the John Rice 5,000-acre grant of land on which the town of Memphis is situated, as the agent or attorney of the said James Winchester, dec'd; and do further authorize and empower the said Marcus B. Winchester to sell and dispose of our interest in any and every part of the said 5,000-acre tract of land, and to convey the same, and otherwise to manage and protect the interest of the said heirs and devisees in the property aforesaid, as may deem to him best.

In testimony whereof the said George, James, & Helen Marr Winchester have hereunto set their hands and affixed their seals on the day & year above mentioned.

GEO. W. WINCHESTER. [SEAL.]
JAMES WINCHESTER. [SEAL.]
HELEN M. WINCHESTER. [SEAL.]

Signed, sealed, and acknowledged in presence of—
HENRY WYNNE.
W. H. WYNNE.

STATE OF TENNESSEE, *Shelby County:*

Personally appeared before me, William S. Massey, clerk of the county court of said county, Geo. W. Winchester, James Winchester, and Helen M. Winchester, with whom I am personally acquainted, and who acknowledged that they executed the foregoing deed of confirmation for the purposes therein contained.

Witness my hand at office the 27th day of January, 1845.

W'M S. MASSEY, *Clerk.*

96 STATE OF TENNESSEE,
Shelby County:

The foregoing of confirmation was filed in my office for registration on the 5th day of February, 1845, at 11 o'clock a. m., and so noted in note-book No. 1, page 184, and was duly recorded on the 11th day of the same month.

W'M. P. REAVES, *Register.*

STATE OF TENNESSEE, *Shelby County:*

I, Charles W. Johnson, register of said county, do hereby certify that the foregoing is a full, true, and perfect copy from the records in my office, as recorded in book R, pages 256 & 257.

Witness my hand and seal of office at office this the 1st day of February, 1868.

{ REGISTER OF SHELBY CO., TENN. }

CHARLES W. JOHNSON,
Register.

Deed of gift.—Lot No. 11.

M. B. Winchester to Mayor and Alderman.

Whereas Andrew Jackson, John Overton, and James Winchester, all of the State of Tennessee, and George Winchester and W'm Win-

chester, of Baltimore, devisees of William Winchester, deceased, owners of 5,000-acre tract of land, including the mouth of Wolf River, and granted by the State of North Carolina to John Rice, grant No. 283, dated April 23d, 1789, did, in the year 1819, contemplate laying of a town at the mouth of said river, which has been done, and is now called Memphis; and whereas the aforesaid owners, apprehensive that
97 the death of either of them might embarress the aforesaid project of laying off a town, selling the lots, and making deeds for the same, did, by mutual agreement, bearing date the 6th day of January, 1819, provide that, in case of the death of any one or two of the aforesaid parties, then the right, title, and interest which the party so dieing shall have in said lands instantly vest in the survivor or survivors, so far as respects laying off said town and large lots adjoinging thereto, and making deeds for the same; and whereas the said Andrew Jackson did, on the 13th day of October, 1823, by deed of conveyance, sell and convey his right, &c., to and in the aforesaid 5,000-acre tract to Jno. C. McLemore, of Nashville; and whereas the said John Overton, and John C. McLemore, survivor aforesaid, did, on the 19th day of June, 1830, and the said William Winchester and George Winchester, also surviors as aforesaid, by their attorney-in-fact, David Winchester, did, on the 24th day of November, 1830, appoint M. B. Winchester their attorney-in-fact, to convey property and lots sold by them or their agents in and near the town of Memphis aforesaid; and whereas William Cage and Lucilius Winchester, executor's of the aforesaid James Winchester, deceased, for the better confirming and assuring the title made under the authority of the survivors aforesaid, did also, on the 13th day of March, 1830, appoint the said Marcus B. Winchester their
98 attorney-in-fact; and whereas the said John Overton, John C. McLemore, George Winchester, and William Winchester, did, on the 7th day of July, by deed of indenture, more fully set forth, release, confirm, and explain these and all other matters connected with the making titles and sale of the property in and near the said town of Memphis: Now, therefore, know all ye whom it may concern, that we, the aforesaid George Winchester, & William Winchester, devisees of W'm Winchester, s'r, dec'd, and John Overton, surviving parties to the before-cited agreement, and John C. McLemore, assignee of the said Andrew Jackson, as surviving parties to said agreement, and as present owners of said land, and also William Cage and Lucilius Winchester, executors of the said James Winchester, dec'd, for and consideration of the sum of one dollar to us in hand paid, do, by these presents, give, grant, bargain, and sell, enfeoff, and convey to the Mayor & Aldermen of the City of Memphis, and their successors in office, their heirs and assigns, forever, a certain lot of ground, situated, lying, and being in the town aforesaid, and designated on the pointed plan thereof as lot No. 11, and bounded as follows, viz: Beginning at a stake which is planted on the west side of Chickasaw street, north 9° 30′ east 74¼ feet from the intersection of the north side of Overton street with the west side of Chicka-
99 saw street; thence 9° 30′ east thirty-seven feet one and a half inches, to a stake; thence west 9° 30′ north one hundred and forty-eight feet six inches, to a stake; thence south 9° 30′ west thirty-seven feet one and a half inches to a stake, the northwest corner of lot No. 10; thence east 9° 30′ with the north boundary line of lot No. 11, one hundred and forty-eight feet six inches to the beginning. Magnetic courses, with contents thereof.

To have and to hold the said lot No. 11, (eleven,) with all its apper-

tenances to the only proper use and behoof of them, the said Mayor & Aldermen of the City of Memphis, and successors in office. That the before-recited lot and bargained premises we will forever warrant and defend the right or claim of all persons whatsoever.

In testimony whereof we hereto subscribe our names and affix our seals, this 25th day of December, 1844.

John S. Claybrook, executor of John Overton,
By M. B. WINCHESTER,
Special Agent & Attorney to Convey ½.

Witness:
DAVID LOONEY.
J. FOLKS.

JOHN C. McLEMORE, [SEAL.]
By M. B. WINCHESTER,
Special Agent & Att'y-in-fact to Convey.

Heirs & devisees of James Winchester,
By M. B. WINCHESTER, [SEAL.]
Sepe'al Agent & Att'y to Convey.

100 W'm Winchester & George Winchester,
By M. B. WINCHESTER, [SEAL.]
Special Ag't & Att'y to Convey.

STATE OF TENNESSEE, *Shelby County:*

Personally appeared before me, John W. Fuller, clerk of the county court of said county, John S. Claybrook, executor of John Overton, dec'd; John C. McLemore, survivor'; heirs and devisees of James Winchester, W'm Winchester, and George Winchester, the bargainers within named, by M. B. Winchester, their special agent and attorney-in-fact, with whom I am personally acquainted, who acknowledged the within deed for the purposes therein.

Witness my hand at office January 7th, 1845.

JOHN W. FULLER, *Clerk.*
By JAMES ROSE, *Dep'ty Clerk.*

Rec'd State tax.

STATE OF TENNESSEE, *Shelby County:*

The foregoing deed was filed in my office for registration on the 7th day of January, 1845, at 4 o'clock p. m., and so noted in note-book No. 1, page 177, and was this day duly recorded in my office, January 14th, 1845.

W'M P. REAVES, *Register.*

Files , 1868.

This indenture, made the of January, 1845, between Marcus B. Winchester, George Winchester, James Winchester, and Helen
101 Marr Winchester, of the one part, and the Mayor & Aldermen of the City of Memphis of the other part, witnesseth: The said Marcus, George, James, & Helen Marr do hereby give, grant, enf'off, and convey to the said Mayor and Aldermen, and their successors, forever, all the rights, title, interest of them, the said Marcus, George, James, and Helen Marr in and to the site selected for the naval depot in and near Memphis, Tennessee, described as follows, to wit: Beginning on the Mississippi River at the point where the north line of Market street strikes the said river; thense eastwardly diagonally, crossing Market street, to the point where the northern line of Market street intersects the western line of Chickasaw street extended; thence northwardly along the western line of Chickasaw street to the point of its intersection with the northern line of Auction street; thence with the line of

Auction street westwardly, crossing Wolf River, to the point where the northern line of Auction street extended strikes the Mississippi; thence down the Mississippi River to the beginning.

This conveyance to be void upon condition that the United States shall not occupy the said site of the navy yard as at present contemplated.

In testimony whereof the said Marcus, George, James, and Helen Marr have hereunto set their hands and affixed their seals on the day and year first above written.

M. B. WINCHESTER. [SEAL.]

Witnesses present:
FRED. P. STANTON.
W. W. STANTON.

102 STATE OF TENNESSEE,
Shelby County, ss:

Personally appeared before me, John W. Fuller, clerk of the county court of said county, M. B. Winchester, one of the bargainors within named, with whom I am personally acquainted, who acknowledged the execution of the within-named deed for the purposes therein contained.

Witness my hand at office, July 10th, 1845.

JOHN W. FULLER, *Clk.*
By JAMES ROSE, *Dep. Clk.*

Rec'd State tax.

STATE OF TENNESSEE, *Shelby County:*

The foregoing deed was filed in my office for registration on the 14th of July, 1845, at 8 o'clock a. m., and so dated in note-book No. 7, page 208, and was duly recorded on the same day.

W. P. REAVES, *Register.*
By WARREN WOODSON, *Dep. Reg.*

STATE OF TENNESSEE, *Shelby County:*

I, Cha's W. Johnson, register of said county, hereby certify that the foregoing is a true and perfect copy of the records in my office, book S, page 201.

Witness my hand and seal of office, at office, this 27th day of August, 1867.

{ REGISTER OF SHELBY CO., TENN. }

CHA'S W. JOHNSON, *Register.*
By J. S. GEAGHIGIN, *D. R.*

Filed Sept. 3, '67.

This indenture, made this third day of March, in the year of our Lord one thousand eight hundred and forty-five, between John C. Mc-
103 Lemore, late of Memphis, Tennessee, (now of New Orleans, La.,) of the one part, and the Mayor and Aldermen of the City of Memphis of the other part, witnesseth:

The said John C. McLemore, for consideration expressed in a certain deed of compromise made between the proprietors of Memphis, the said Mayor and Aldermen, and John D. Martin, Walter D. Dabney, & Thomas W. Fletcher, doeth hereby give, grant, enfeoff, and convey to the said Mayor and Aldermen, and their successors, forever, all the right, title, and interest of him, the said John C. McLemore, in and to the parcel of ground of Shelby County, Tennessee, selected by the United States as the site of the naval depot, described as follows, to wit:

Beginning on the Mississippi River at the point where the southern line of Market street, in Memphis, strikes the said river; thence eastwardly, diagonally crossing said street to the point where the northern line of Market street intersects the western line of Chickasaw street extended; thence northwardly, along the western line of Chickasaw street with its intersection with the northern line of Auction street; thence with the said line of Auction street, westwardly, crossing Wolf River to the Mississippi River; thence down the Mississippi River to the beginning.

To have and to hold the said parcel of land, with its appurtenances, to them, the said Mayor and Aldermen, and their successors, forever.

In testimony whereof, the said John C. McLemore hath hereunto
104 set his hand and affixed his seal, on the day and year first aforesaid.

JOHN C. McLEMORE. [SEAL.]

Witness:
SACKFIELD MACKLIN.
AUSTIN MILLER.
FRED. S. STANTON.

STATE OF TENNESSEE,
Shelby County:

Personally appeared before me, John W. Fuller, clerk of the county court of said county, John C. McLemore, the within-named bargainer, with whom I am personally acquainted, and who acknowledges the execution of the within-named deed, for the purposes therein contained.

JOHN W. FULLER, *C'lk.*
By JA'S ROSE, *D'p. C.*

Rec'd State tax.

STATE OF TENNESSEE,
Shelby County:

The following deed was filed in my office for registration, on the 4th day of July, A. D. 1845, at 8 o'clock a. m., and so noted in note-book No. 1, page 208, and was truly recorded on the same day.

WM. RIVES, *Register.*
By WARREN WOODSON, *D. R.*

STATE OF TENNESSEE,
Shelby County:

I, Cha's W. Johnson, register of said county, do hereby certify that the foregoing is a full and true & perfect copy from the books in my office, on record in book 8, pages 203 & 204. Witness my hand and seal of office at office the 3d day of February, 1868.

{REGISTER OF SHELBY CO., OF TENN.}

CHA'S W. JOHNSON, *Register.*

Ex'ibit C to agreement of counsel.

105 For and in consideration of the sum of twenty dollars per acre, to us secured to be paid by the Mayor and Aldermen of the Town of Memphis, we, Walter D. Dabney of the county of Crittenden, and State of Arkansas, and Thomas M. Fletcher of the county of Tunica, and State of Mississippi, hereby give, grant, bargain, & sell & convey to said Mayor & Aldermen & their successors in office, a certain tract or

parcel of land lying in the county of Shelby, State of Tennessee, and bounded as follows, to wit:

Begi'ning at a point on the north side of Wolf River, where the north side of Auction street, in the town of Memphis, extented westwardly would strike the said north bank of Wolf River; thence with the north side of said street extended westwardly, to a point on the Mississippi River, where the north side of said street extended westwardly would strike said Mississippi River; thence down *with* the Mississippi River, with its meanders, to the mouth of Wolf River; thence up Wolf River, with its meanders, to the beginning.

To have and to hold said tract of land, supposed to contain thirty and one-third acres, to the said Mayor & Alderman, and their successors forever; and the said Dabney & Fletcher do hereby forever warrant and defend the right, title, and claim of said Mayor & Aldermen, & their successors *& their successors* in office, forever, against the right, title,
106 and claims of all persons claiming by, through, or under them, and no further. But it is provided that as this conveyance is made for the purpose of aiding the establishment of a naval depot, should said depot not be established, then this conveyance to be void, and no payment to be required for the same.

In testimony whereof the said Dabney & Fletcher have hereunto set their hands and affixed their seals, this 13th day of September, 1844.

WALTER D. DABNEY. [SEAL.]
THOMAS M. FLETCHER. [SEAL.]

Witness:
GEORGE TRUP.
WILLIAM M. MADDEN.

107 CITY HALL, *Memphis, Apr. 7th*, 1854.

At adjourned meeting of the board of mayor & aldermen of the city of Memphis, on Saturday, April 7th, 1854—present, Mayor Taylor, Chairmain Douglass, Mess. Milton, Patrick, Jenkins, Houston, Neil, Curtis, Hughes, and Saffrans, aldermen.

The chairman took his seat, and called the board to order, &c.

Thereupon Alderman Saffrans, being seconded, offered the following resolution, which was adopted by the board, viz:

Resolved by the board of mayor and aldermen of the city of Memphis, That the mayor be instructed to communicate at an early day with the Secretary of the U. States Navy, at Washington City, that the council of the city of Memphis, Tennessee, withdraw the conditions tendering the navy yard & appurtenances at Memphis to the General Government, and that they intend taking possession of the same so soon as the Secretary of the Navy can have such articles as belong to the Governme't removed, &c.

Whereupon Chairman Douglass offered the following preamble and resolution in relation to the navy yard at Memphis, which were likewise adopted by the board, viz:

Whereas the U. States Congress has recently adjourned with-
108 out reinstating the navy yard *at* in this city; and whereas longer delay in the disposition of said property will result injuriously to the present and future interest of this city, therefore,

Resolved by the board of mayor and aldermen of the city of Memphis, That the city engineer be, and is hereby, instructed, under the supervision and direction of a committee of three, consisting of Curtiss, Saffrans, and Douglass, to survey and stake off all that portion of the navy

yard grounds lying between Chickasaw street, on the east, and the vertical wall on the west, and on the north and on the south by the brick wall which surrounds said navy yard, and returns a profile and reports of the same to this board.

Resolved, That said committee agree upon and report to this board the terms, manner of sale, and such other and further matters relating to the disposition of said property best calculated to promote the interests of the city in the sale of said property.

Resolved, That said committee be instructed and requested to enquire and report upon the best plan by which to dispose of the remainder of the said navy yard grounds, buildings, machinery, &c., &c., as to promote, *promote*, foster, and encourage manufactories.

Resolved, That as deeply as we deplore what we regard as the
109 mistaken policy of the Government in the abandonment of the navy yard in this city, viewed as an essential link in the great chain of defenses necessary to the protection of the immense commerce of the Mississippi Valley, that out of the ruins of the navy yard and to the stimulus which may be afforded to private enterprise, the public myth of the phœnix and its ashes may find a fresh realization, and a fleet of small ships and large guns spring up as dangerous to the foreign intruders as an outraged public sentiment to crafts in high places.

Resolved, That this city will lease for the period of fifty years, free of charge and taxation, so much of said grounds as may be necessary for the erection of a building, yard, and dock for repair vessels, &c.

Book 7, page 601 & 602.

STATE OF TENNESSEE,
County of Shelby, City of Memphis:

This is to certify that the foregoing is a true and perfect extract copied from the record and adopted minutes of the proceedings of the board of mayor and aldermen of the city of Memphis aforesaid.

110 In testimony whereof I, Lewis R. Richards, city register and keeper of the records and corporate seal of said city, have hereunto set my hand and affixed my seal this March 4th, A. D. 1867.

L. R. RICHARDS.

111 ATTORNEY GENERAL' OFFICE, *Aug't 8th*, '54.

SIR: I have received your letter of the 7th inst. propounding certain questions as to the construction of the 3d section of the act of Congress making appropriations for the naval service of the fiscal year. That section is in the following words, namely:

"SECTION 3D. *And be it further enacted*, That all the ground and appurtenances thereto belonging, known as the Memphis navy yard, in Shelby County, Tennessee, be, and the same is hereby, *is hereby*, ceded to the Mayor and Aldermen of the City of Memphis for the use and benefit of the said city, and that the Secretary of the Navy order the commandant of said navy yard at Memphis to surrender to the mayor of Memphis said property: *Provided*, That the accounting officers of the Treasury, in settling the amounts of the late navy agent at Memphis, shall not deduct the sum of two thousand nine hundred and sixty-four dollars and fifty-nine cents, already reserved by him and passed to *the* credit on the *body* of the Treasury Department, from his sallary as acting pu'ser, provided for by an act making appropriations for the naval services of the count'y for the year ending the 30th of June, 1853."

112 Upon which the questions are: 1st, whether it was the intention of the law to include in the above cession all the buildings

and machinery erected, and public property of every discription placed at the Memphis navy yard for purposes connected with the object of the navy yard; 2nd, whether the session intended by Congress to be conditional, or whether the provision is a distinct and indépendant provision affecting only the action of the accounting officer of Treasury in the partic'lar subject-matter.

In considering the first question it is unnecessary to pay particular attention to the language of the enactment, and the construction is defineable according to well-established rules of law. The words are, "all the grounds and appurtenances thereto belonging, known as the Memphis navy yard," are "ceded" to the city of Memphis. These words are descriptive of real estate and nothing else. The grounds are the principal, to which the appurtenances may belong as incidents; appurtenances are of the realty, but they are not and cannot be land itself. They are incorporal eas'ments, or rights and privileges appendant to the inher-etance.

It is plain, therefore, that the act does not cover the public
113 property of every description placed at the yard for purposes connected with the object of the yard. Hemp, timber, iron, marble, stores, or other chattles of any sort not comprehended by the word "ground and appurtenances thereto belonging," "personal property not annexed to the land," is *not is* neither ground nor its appurtenances. Indeed, as the word appurtenances signifies nothing but an easement, or other privil*idge* attached to the inheritance, the whole virtue of the description is in the expression, "ground known as the navy yard." It is equivalent to a grant of a tract of land bounded so and so, being the navy yard at Memphis. Such language in a grant conveys all the *bind*-ings on the land, as a matter of course, whether they be mentioned or not. It conveys all machinery erected for the purpose of conducting any process of industry, art, or manufacture, provided such machinery has been annexed or attached to the freehold so as to constitute what in law is called a fixture. (Ames & Forrand, cha. 5.) That is to say, the only question herein is, whether the machinery spoken of is in the condition of a fixture? Machinery of any sort, and other utensils or objects
not attached to the land, *does* not pass by the terms of the act,
114 but fixtures are not, after grant of the freehold, reasonable as between grantor and grantee. Whether the machinery be fixtures or not is a mix'd question of law and fact, to be determined by suitable enquiry under the direction of the Secretary of the Navy.

As to the second question, it is to be remembered that the word "provided" following one clause of the statute and proceeding another, does not of necessity constitute a condition of d*e*f*e*rance of the proceeding claim.

Even in a deed, the words following "provided" are sometimes so construed so as not to make a condition or limitation, but a seperate and substantial covenant or agreement. (Lord Cromwell, case 11 Coke, page 72; Simpson vs. Littrell, pa' 242; Docharay case, 2711, viii, 14; Chapman vs. Mayle, 1 Lea, 155.) Everything depends on the tenor of the two clauses, and the question of their cor'elative in sense. There is and old case in the construction of statutes, in which it is said that where a proviso and the clause to which it is attached are irreconsilabely repugnant, the proviso shall s and and be held a repeal of the *proviso*, because
it speaks the last intention of the lawgiver. (The Attorney Gen-
115 eral, Chelsea Water Works, Fitzgibbon, p. 195.) But the doctrine is now held not to be good law. (III Kent' Com., page 462.) A proviso in a statute, like a saving clause, is to be rejected if it be

utterly repugnant to the main enactment. (Washington case, Plowden, p. 563; Milford v. Ellutt, viii, p. 13. The true nature and use of proviso, are thus explained by Dranes: Proviso is something engrafted upon a proceeding enactment, and providing specially for *them*. In its abuse it contains all unconnected matters, and disposes of whatever is incapable of combination with the rest of any clause in statutes. (P. 514.)

The word "proviso," in the act under consideration, if legitimately used, would not have the effect of repealing the previous clause, or of constituting a condition precedent to the execution thereof; it would at most amount to a saving clause or limitation, so as to take its subject-matter out of the perview of the main clause, if they were in any possible view connected in sense. If previous accounts be a comprehended in the navy yard at Memphis, then it becomes requisite to enquire whether the "proviso" excepted anything from the previous clause or stood in the attitude of repugnancy towards
116 it. Such is not the case. It is apperent, in the face of the law, that the two provisoes of the section are distinct in nature, and perfectly independent one of the other in construction. It is evident that the juxtapositions of the two propositions are their being thrown into one by the word proviso—an accidental or untentional facts. There is nothing in the sense to create or imply a dependency *of* between the cession of the "navy-yard" and the settlement of amounts of Mr. Perrin. The word "provided," in this instrument, is to be treated just as if it were a copu'ative conjunction merely, or "be it further enacted." If Congress had really intended that this second clause should stand where it does it would be an apt example of that class of provisos which Devanes denominated an abuse; that is, a hasty method of gathering up and disposing of unconnected matter incapable of connection with other parts of the act. But the legislat*ure* history of the matter is well ascertained. The two provisions are amendments of the bill, mov'd and adopted separately during its passage in the Senate, having no connection of purpose, and comparatively put together by the engrossing clerk, without the consequent distinctness of construction receiving the attention of Congress.

117 I am clearly of opinion, therefore, that the two cl'uses in legal intendment, each to be considdered and disposed of separately, according to the sense of each, the one by the Secretary of the Navy and the other by the accounting officer of Treasury, precisely as if they were in separate sections, or separate acts of Congress.

I am, very respectfully,

(Signed) C. CUSHING.

Hon'l J. C. DOBBINS,
Sec't'y of the Navy.

After reading of the foregoing documents they were, on motion, which was seconded, ordered to be received and laid over for future action on the part of the board.

Record book 7, page' 473, 474, & 475.

CITY HALL, *Memphis, Aug't 22d*, 1854.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, August 22d, 1854—

Present, his honor the mayor, Messrs. Chairman Douglass, Jenkins, Morgan, Patrick, Smithwick, Hopkins, Street, Seffarans, Neal, and Curtis, aldermen—

When the chairman took his seat and called the board to order and

had the minutes of the previous meeting read, which were, on motion, respect*fully* adopted.

118 Chairman Douglass read to the board a preamble and resolutions in relation to the action of Congress proposing to donate to the city the Memphis navy yard and appurtenances, when—

Alderman Patrick offered as a substitute for Mr. Douglass's proposition one slightly different in character, proposing to hold the matter under advisement for a time, when—

Alderman Street offered a resolution on the subject, p'oposs*i*ng that the city marshal*l* advertise for and hold an election or take the vote of the citizens of Memphis touching the premises, on first Saturday in October next, at the City Hotel and Gayoso House.

Which propositions were severally discussed by members of the board, when—

It was moved and seconded that the whole matter be postponed until Tuesday next; which motion was lost.

It was then moved and seconded that Mr. Patrick's preamble and resolution proposing to hold the matter of acceptance or rejection on the part of the city under advisement until the first Tuesday in October next, *to* be taken up; which was agreed to. When, upon motion, these were adopted, to wit:

Whereas the board has been notified, through the Secretary of
119 the Navy, of the passage of an act of Congress ceding to the city of Memphis the navy-yard grounds, with the appurtenances thereunto, which act of cession only need' the acceptance of mayor and aldermen of Memphis to be consum'ated, and to go into full force and effect; and whereas, the abandonment of the work by the Government e*q*ually concerns the people of the State' of the Mississippi Valley, at whose request it was established, for national uses and purposes—

Resolved, That the board deems it proper and just that the people of Memphis and the Mississippi Valley should have time and opportunity to examine, and c'me to mature conclusions on the questions of acceptance, will hold it under advisement until the first Tuesday in October next.

Resolved, That the mayor be instruc*et* to notify the proper authorities at Washington of this resolution.

Resolved, That the city attorney be instructed to examine and report to the board what question of validity of title, if any, may arise under the cession, if accepted by the city. When—

Alderman Sefferans, being seconded, offered the following resolution, to wit:

Resolved, That his honour the mayor, be requested to call a
120 meeting of the citizens next Saturday evening, at 8 o'clock, at Exchange Hall, to consider the question of accepting or rejecting the navy yard and appurtenances.

Record book 7, page 476.

CITY HALL, *Sept. 5th*, 1854.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Sept. 5th, 1854—

Present, his honour the mayor, Messrs. Chairman Douglass, Smithwick, Curtis, Jenkins, Street, Neil, Patrick, and Hopkins, aldermen—

When the chairman took his seat and called the board to order, &c.

A petition, signed by upwards of 530 citizens of the city, respectfully request' the mayor and aldermen to immediately accept, on the part of

the city, the Memphis navy-yard, as ceded by a late act of Congress, was then presented, read, and received.

Alderman Hughes, being seconded, moved to refer the petition to a select committee, which shall report to the next meeting; which motion was lost.

Thereupon Alderman Neal moved a reconsideration of the resolution passed on the 22d of Aug'st past, in relation to the Memphis navy yard, by which all action was deferred until the last Tuesday in October
121 next; which motion was approved by the board.

The yeas and nays being called for, stood as follows: Yeas, Messrs. Neal, Jenkins, Curtis, Street, Patrick, Douglass—6. Nays, Smithwick, Hopkins, & Morgan—3.

Alderman Patrick, being seconded, offered a resolution proposing to postpone action on the subject until Tuesday next.

Alderman Hopkins proposed to refer the matter to a vote of the people or citizens of the city, on the first Monday in October next. And—

Alderman Street, being seconded, offered a resolution proposing to hold an election on the last Saturday in September, in each of the city wards, in relation to the acceptance or rejection of the navy yard.

Upon which several propositions considerable discussion ensued.

The question was taken on Alderman Patrick's resolution and carried, which read in the words and figures following:

Resolved, That the board postpone until Tuesday next definite action on the subject of the reception or rejection of the navy yard, and that it then be acted on definately.

The mayor stated to the board that he had not advised the Secretary of the Navy of the previous action of this board, as he thought it
122 not advisable to do so until the question of reception and rejection be finally determined; which course was approved by the board.

In book 7, page 487.

CITY HALL, *Memphis, Nov'r* 28, 1854.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, November 28th, 1854—

Present, his honor the mayor, Messrs. Chairman Douglass, Patrick, Jenkins, Morgan, Woodruff, Neal, Curtis, and Hopkins, and Sefferans, aldermen.

When the chairman took his seat and called the board to order, &c.

Whereupon, Tho's S. Morgan, esq'r', alderman of the 4th ward, tendered his resignation, which was accepted.

Upon motion, Messrs. Curtis, Neal, & Woodruff, were appointed special committee to examine the engine & machinery appertain'g to the Memphis navy yard, and ascertain the true condition thereof, whether it has or will become necessary to employ an engineer, &c., to take proper care of and protect the same from injury whilst out of use, and report to this board at the next meeting the result of their examination, &c.

Book 7, page 543.

123 CITY HALL, *Dec'r 5th*, 1854.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Dec'r 5th, 1854—

Present, his hon'r the mayor, Messrs. Chairman Douglass, Milton, Jenkins, Smithwick, Woodruff, Hopkins, Neal, Curtis, Hughes, & Sefrans, aldermen.

The chairman took his seat, called the board to order, &c., when the committee to whome was refer'ed the examination of the navy yard machinery made the following report, to wit:

We, the undersigned, to whome was refer'ed the examination of the navy-yard machinery in the Memphis navy yard, after examination of the same, would state that they found it in a proper condition, and, in their opinion, requires no further care or attention than it is now receiving.

(Signed) S. B. CURTIS,
A. WOODRUFF,
JOHN NEAL,
Committee.

Book 7, page 544.

CITY HALL, *Memphis, March* 13, 1855.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, March 13th, 1855—

Present Chairman Douglass, Milton, Patrick, Jenkins, Houston,
124 Hopkins, Woodruff, Curtis, Neal, Hughes, & Safferans, aldermen.

The chairman called the board to order, &c.

Chairman Douglass, being seconded, offered the following preamble and resolution, to lay off into suitable lots, &c., the naval depot grounds, and dispose of the same, asking that the same be filed, and action thereon deferred for the present. Which was agreed to.

Book 7, page 589.

CITY HALL, *Memphis, April* 17, 1855.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, April 17th, 1855—

Present Mayor Taylor, Chairman Douglas, Patrick, Jenkins, Houston, Hopkins, Curtis, Neal, & Saffarans, aldermen—

When the chairman took his seat and called the board to order, &c.

Whereupon the committee to whome was refer'ed the laying off of the Memphis navy-yard grounds into suitable lots preparatory to exposing the same to sale, &c., was presented, read, received, and *and* the report concerned in by the board.

125 *Repoort.*

To the honourable board of mayor and aldermen of the city of Memphis:

The committee to whom was refer'ed the resolutions ordering a survey, profile, and report, together with the best means of disposing of that portion of the navy-yard grounds which is situated between Chickasaw street on the east, and the stone wall on the west, submit the following as the result of the observation:

It is advised that the said grounds be sold in lots of 52 feet each, fronting on Chickasaw street on the east, and on Promenade street on the west, as set forth in the and survey of the engineer, hereto attached.

That the captain or commandant's house, with all the appurtenances, and one hundred and thirteen of ground, be sold, together with other and further sub-divisions, as set forth in the plan above alluded to.

The committee further report in favor of selling the above-named lots on 20 years' time, with mortgage bonds, bearing interest at 6 per cent.

per annum, payable annually, with power to re-sell upon failure to pay the interest.

It is deemed advisable to sell the stone in all the walls, ex-
126 cept that running with the west side of Promenade street, in lots of 500 feet, at 4 & 8 months, payable in bank, with a good endorser, and the brick in sections, corresponding with the lots, on the same time and terms as the stone.

The committee recommended that 60 days' notice of said sale be given, and that the board appoint a committee of three to conduct and superintend said sale.

A. H. DOUGLASS,
J. L. SEFFERANS,
S. B. CURTIS,
Com.

A. H. Douglass' preamble, &c.

Chairman Douglass offered the following preamble and resolution, to wit:

Whereas a series of resolutions relative to the disposition of the grounds known as the navy yard received the sanction and adoption of the board on the 10th day of April, 1855:

And whereas a petition purporting to be signed by a large number of the citizens who we represent, praying that the question of re-tendering said navy yard to the Government of the United States might be submitted to the people:

And whereas said petition, after having been duly considered, was laid on the table:

And whereas, at a public meeting, held on the 14th inst., a
127 preamble and sundry resolutions were adopted and ordered to be presented to this board, which said preamble is as follows:

"Preamble.

"Whereas the right of the people to be authentically heard in their individual and collective capacity upon any great question affecting their interest is one that lies at the very foundation of the National, State, and municipal institutions of this country:

"And whereas the only proper method by which this can be expressed in reference to any question that may arise is to permit the people to go forward to the polls and vote upon it:

"And whereas the question of a re-tender of the Memphis navy yard to the General Government is one which has arisen since the board of mayor and aldermen were elected to office;" now, therefore,

Be it resolved by the board of mayor and aldermen of the city of Memphis, in council assembled, That the political dogma set fourth in said preamble, that the people have a right to be heard, meets our cordial and hearty approval, but at the same time we as solemnly declare that the medium through which it is heard shall be a constitutional
128 one, or otherwise accompanied by satisfactory assurances that the ends sought is in accordance with the will of the majority.

Resolved, That the doctrine further set fourth in said preamble, that the only proper method by which this right can be expressed in reference to any question that may arise is to permit the people to go forward to the polls and vote upon it, is a gross absurdity on its face, and is, in fact, at war with and *subordinate* of the fundimental principles

upon which any representative gover'ment is based—would surrender the policy and legislation of substantial majorities to the mercy of the mere factions, and throw out all the wise purposes of gover'ment and legislation, by withdrawing and destroying that stability and permanency which are vital and essential in any constitution which creates, promotes, and protects civil liberty.

Resolved, That in the doctrine of petition and instructions we recognize a legitimate and, when wisely and dispassionately exercised, a healthy correction of evils of hasty or tardy legislation, and we will ever listen with patience and respect to the exercise of either the one or the other, by any one or more of our citizens.

Resolved, That we deeply deplore the animosity engendered
129–30 a portion of the people *of* whom we represent, and we shall cherish the hope that, while acting in the cons'ientious and fearless discharge of what we regard an imperative duty, the sober second thought of *of* a generous people will ultimately do that justice which in this case is the only reward to a public servant.

On motion, the communication of James Penes and others was ordered to be received and filed.

Thereupon it was moved and seconded that Chairman Douglass' preamble and resolutions be adopted. Which motion was concurred in by the council.

The yeas and nays being called for, stood as follows, to wit: Yeas, Messrs. Jen*kin*kins, Houston, Sefferans, Curtis, Neil, Douglass—6. Nays, Patrick & Hopkins—2.

For which proceedings Mess. Patrick & Hopkins asked leave to write out and file their respective protests; which was agreed to.

Book 7, page' 608, 609, 610.

CITY HALL, *Memphis, April 24th*, 1855.

At a called meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, April the 24th, 1855—

131 Present, Mayor Taylor, Messrs. Chairman Douglass, Jenkins, Houston, Danberry, Hopkins, Neal, Curtis, Hughes, Saffarans, aldermen—

The chairman took his seat and called the board to order.

Thereupon Alderman Houston, being seconded, offered the following resolution, which, after a liberal interchange of opinions on the part of the members of the board present, and the affixing of several amendments to the resolutions, which were all withdrawn, *and* the resolution was adopted.

Resolution.

Resolved by the board of mayor and aldermen of the city of Memphis, That the order of sale, passed on the 17th inst., of a portion of the navy-yard property, as there expressed, be, and the same is hereby, repealed, and that the mayor is hereby directed to withdraw the advertisement ordered by the said resolutions as to terms, and that the sale of the navy-yard property, or any and every part thereof, belonging to the city, is postponed until Thursday, the 25th day of October, 1855.

Book 7, page 610.

CITY HALL, *Memphis, May 1st*, 1855.

At a meeting of board of mayor and aldermen of the city of Memphis, on Tuesday, May the 1st, 1855—

132 Present, Mayor Taylor, Messrs. Chairman Douglass, Jenkins, Danberry, Patrick, Woodruff, Hopkins, Curtis, Neal, Hughes, and Safferans, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon a communication from Messrs. James Penn, E. M. Apperson, & Geo. W. Smith, enclosing the vote of the people on the subject of a re-tender of the Memphis navy yard to the General Gover'ment or to the next Congress, was presented, read, and received.

Whereupon Alderman Patrick, being seconded, offered a preamble and resolution, proposing a retrocession by the board of the Memphis navy yard to the next Congress upon condition that if at any time it should *at any time it should* deem it inexpedient to use the property for a naval depot, the property shall revert to the city, and that this action be forthwith tendered to the Secretary of the Navy, with the request that he suspend the sale of the navy-yard property now advertised for sale, &c.

When it was moved and seconded that further action on the premises be postponed until, after the first of July next, the incoming of the next board, which motion was adopted.

The yeas and nays, being called for, stood as follows, to wit:

133 Yeas. Messrs. Jenkins, Neal, Saffarans, Curtis, Hughes, Douglass, Woodruff, Danberry—8. Nays, Patrick & Hopkins—2.

Book 7, page 614 & 615.

CITY HALL, *Memphis, July 3d*, 1855.

At a meeting of the board of the mayor and aldermen of the city of Memphis, on Wednesday, July 3d, 1855—

Present, Mayor Douglass, Messrs. John L. Saffarans, Dan'l Hughes, Stephen B. Curtis, John Neal, James Elder, Amos Woodruff, John D. Danberry, W. R. Chandler, James Jenkins, John L. Morgan, W. E. Milton, and F. M. Copeland, aldermen.

Whereupon the board was called to order by Alderman Hughes, &c.

Whereupon Alderman Elder, being seconded, offered the following resolution, which was adopted, to wit:

Resolved, That the city marshall be instructed to see the proper representatives of the Memphis & Louisville Railroad Company, and require the gate, through which the road runs, to be so altered and arranged that it may be closed at night for the protection of the navy-yard buildings and property.

Book 8, page 35.

134 CITY HALL, *Memphis, July 10th*, 1855.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis July 10th, 1855—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Hughes, Saffrans, Neal, Curtis, Elder, Danberry, Chandler, Jenkins, Morgan, Milon, and Copeland, alde'men—

The chairman took his seat, and called the board to order, &c.

Whereupon Alderman Saffrans, being seconded, offered the following resoulition, which was, on motion, adopted:

Resolved by the board of mayor and aldermen, That three commissioners be appointed by the chairman to recommend to this board at its next meeting the most suitable mode of disposing of the Memphis navy yard, and that the mayor be instructed to inform the Navy Department

at Washington, that it is not the intention of this board to again tender it to the General Government.

Committee: Saffrans, Copeland, and Milton.

Book 8, page 39.

It was then moved & seconded that the mayor be authorized to rent out the dwelling-houses in the "navy yard," which motion was concurred in.

Book 8, page 40.

CITY HALL, *Memphis, July* 17, 1855.

At a meeting of the board of mayor and aldermen of the city
135 of Memphis, on Tuesday, July, the 17, 1855—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Milton, Copeland, Morgan, Jenkins, Chandler, Danberry, Neal, Hughes, and Saffrans, aldermen—

The chairman took his seat, and called the board to order, &c.

Thereupon the committee, charged with the consideration of the best and most advantagious of disposing of the Memphis navy-yard property, made the following report, which was read, received, and ordered to be spread upon the records.

Report.

To the hon'l board of mayor & aldermen:

Your committee, to whom was referred the resolution, ordering a survey, profile, and report, together with the best means of disposing of that portion of the navy-yard grounds, which is situated between Chickasaw street on the east and the stone wall on the west, submit the following as the result of their observations.

It is advised said lots be sold. Lots of fifty feet each, fronting on Chickasaw street on the east, and on Promenade street on the west, as set forth on the plans and surveys of the engineer hereto attached; that the captain's or commandant's house, with all the appurtenances, and one hundred and thirteen feet of ground front be sold, together with other and further sub-divisions, as set forth in the plan above-alluded to.

The committee further report that they deem it advisable to sell the stone in all the walls, except that running with the west side of
136 Promenade street, in lots of five hundred feet, at 4 & 8 months, payable in bank, with a good endorser, and the brick in sections, corresponding with the lots on the same terms and time as the stone.

The committee request the authority to advertise the above in two of our daily papers, and beg further time as to the disposition of that portion of the yard west, or below what is called the vertic*le* wall.

The committee recommend the first Monday in November next as the day of sale.

JOHN L. SAFFRANS,
W. E. MILTON,
F. M. COPELAND,
Committee.

When, after a full and free interchange of opinions between the aldermen, it was moved and seconded that the matter be referred back to the same committee with instructions to fix the time and terms of sale as to time, &c., which was adopted.

Book 8, page 42.

Thereupon Mayor Douglass reported verbally that he had rented two of the dwellings in the navy yard at reasonable prices to responsible tenants; that he had complied with the instructions of the council in regard to the correspondence with the Secretary of the Navy *yard grounds*, informing him that the city did not intend to re-tender the Memphis navy yard grounds and appurtenances to the General Government, but that the city designs appropriating the same to her own proper use, requesting the Department to remove from the yard, at the earliest day practicable, all the Government property, &c.

Book 8, page 43.

137 An application from Fire Co. No. 6, asking the use of the navy-yard bell for the company as an alarm bell, &c., was granted.

Book 8, page 46.

CITY HALL, *Memphis, July 31st*, 1855.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, July 31st, 1855—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Milton, Copeland, Morgan, Chandler, Danberry, Elder, Neal, and Saffrans, aldermen—

The chairman took his seat, and called the meeting to order, &c.

Report.

The undersigned committee, to whom was referred the resolution of this board, to report the best means of disposing of that portion of the navy-yard ground situated between Chickasaw street on the east and the vertic*le* wall on the west, submit the following as the result of their observations:

They recommend that Jackson, Commerce, Overton, Concord, & Auction streets be re-opened to the vertical wall; the parallel all'y and Winchester street to remain closed; that the grounds be laid off between said streets in lots as near as can be done of forty-five feet width, running through from their fronts on Chickasaw street to Promenade street, except the ground on which the commandant's house stands, which shall be about 113 feet, or large enough to embrace the necessary appur-

138 tenances; that the said lots be leased for the term of twenty-five years, at auction, on the fourth Monday in November, 1855; the lessee to pay the rent upon the first of May and the first of November of each year for the full term of his, her, or their lease, and to pay all taxes that may from year to year be assessed against the property; by failing to pay the rent for the space of three months, after the maturity of the same, the lease, at the option of the mayor and aldermen, to become forfeited and null and void, the city reserving the right to take the improvements that may be erected on the grounds at the expiration of the lease at an assessed value by commissioners to be appointed at that time. But if the city or the owners of the buildings should object to the valuation then made, the lessee shall have three months' time to remove *their* improvements, after the expiration of their lease.

Your committee would further recommend that the rope walk and machinery, and the other buildings and grounds connected with them, west of the vertic*le* wall, be advertised by the mayor for lease on such time as may suit lessee, not exceeding twenty-five years, the rent to be paid semi-annually, and that he report to this board such propositions as he may receive at any regular meeting for consideration by the board.

Your committee would also recommend that the brick and stone in

the wall on the west side of Chickasaw street be reserved for the use of the city, and the mayor be authorized to have the same removed when, in his judgment, it shall become necessary.

139 A. WOODRUFF,
W. E. MILTON,
Committee.

The yeas and nays, being called for, stood as follows, to wit: Yeas, Messrs. Milton, Chandler, Morgan, Elder, Danberry, Neal, & Woodruff —7. Nays, Copeland & Saffrans—2.

Thereupon Alderman Milton, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved by the board of the mayor & aldermen of the city of Memphis, That the mayor be, and he is hereby, authorized to advertise in such papers, as he may think necessary, the sale of the navy-yard property.

Record book 8, page 51 & 52.

CITY HALL, *Memphis, Aug't* 7, '55.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday August 7th, 1855—

Present Mayor Douglass, Messrs. Chairman Woodruff, Jenkins, Elder, Chandler, Danberry, Copeland, Milton, and Saffrans, aldermen—

The chairman took his seat, and called the meeting to order, &c.

Alderman Elder, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved, That the overseer of the chain-gang or work-house
140 force be directed to take down and clean such portion of the brick wall in front of the navy yard property as shall be directed by the street commissioner, to be used in making and repairing gutters to side-walks.

Book 8, page 61.

CITY HALL, *August 20th*, 1855,

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, August 20th, 1855—

Present, Mayor Douglass, Messrs. Neal, Elder, Chandler, Danberry, Copeland, Morgan, and Milton, aldermen—

In the absence of the regular chairman, Alderman Neal took the seat and called the board to order, &c.

Alderman Milton, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved by the board of mayor and alderman of the city yf Memphis, That in disposing of the navy-yard property, the mayor is hereby instructed and requested to preserve the iron railing on said grounds, &c.

Book 8, page 66.

Thereupon the petition of Benjamin Wright, esq'r, proposing to purchase a portion of the northern wall of the Memphis navy yard, and the ground upon which the same is situated, was read, received, and, on motion, laid upon the table.

Book 8, page 69.

141 CITY HALL, *Memphis, August 27th*, 1855.

At a called meeting of the board of mayor and aldermen of the city of Memphis on Monday, August the 27th, 1855—

Present, Mayor Douglass, Messrs. Milton, Chandler, Copeland, Morgan, Jenkins, Curtis, Neal, and Saffrans—

In the absence of the chairman, Alderman Saffrans took the seat and called the board to order, &c.

When his honor the mayor explained the object of the meeting to be for the purpose of considering the proposition of W. Walker, esq'r, to lease a portion of the navy-yard buildings and machinery for the manufacture of bale-rope and bagging, &c.

Whereupon the communication of W. Walker was read to the board proposing to lease from the city for the term of five years, the following buildings, &c., in the navy yard, to wit: The 2nd story of the rope-walk with the engine, &c.; the building known as the hemp-house, and the small house on the mound, at the sum of fifteen hundred dollars per annum, payable semi-annually.

When it was moved and seconded that communication be laid upon the table; which motion was adopted, Alderman Curtis dissenting, insisting upon its reference to a committee.

Book 8, page 70.

CITY HALL, *Memphis, November 6th*, 1855.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, 6th Nov., 1855—

142 Present, Mayor Douglass, Messrs. Milton, Copeland, Morgan, Jenkins, Danberry, Chandler, Elder, Curtis, Neal, Hughes, and Saffrans—

In the absence of Chairman Woodruff, Alderman Elder took the seat and called the board to order, &c.

Thereupon it was moved and seconded that a special committee be appointed to inquire into the probable advantage to the city and the public at large of selling, instead of leasing for 25 years, the navy-yard ground east of the vertic*le* wall from Auction to Market streets extended, which motion was adopted.

The chairman appointed Messrs. Saffrans and Morgan the committee, with the request that they report at the next meeting of the board.

Book 8, page 93.

CITY HALL, *Memphis, Nov. 20th*, 1855.

At a meeting of the board of mayor and alderman of the city of Memphis—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Saffrans, Hughes, Curtis, Neal, Elder, Danberry, Jenkins, Morgan, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon Alderman Saffrans, chairman of the special committee, appointed at the last meeting of the city council to inquire into the propriety of selling instead of leasing that portion of the navy-yard grounds lying east of the vertical wall between Auction and Market streets, reported favorably to selling the same on fifteen years'

143 time, instead of leasing for 25 years at the rate of six per c't. per annum, with deed in fee-simple, the city retaining a lien on the property to secure the ultimate payment, &c. When, after some discussion and a full and free interchange of opinions on the part of the council, the following resolution was, on motion, adopted, to wit:

Resolved by the board of mayor and aldermen of the city of Memphis, That that portion of the navy-yards grounds lying between the vertical wall on the west, and Chickasaw street on the east, and Auction street

on the north, and Market street on the south, be offered for sale at public auction on Monday, the 26th of November inst., on the following terms and conditions, to wit:

In lots fronting on Chickasaw street as heretofore surveyed by the city engineer, and on a credit divided as follows: one-eighth of the purchase-money in ninety days, and the balance in eight equal an'ual payments, for which, notes are to be taken, each bearing interest from date, the two first notes to wit, the one due at 90 days, and the one due at 12 months to be endorsed satisfactorily. The purchaser to take deeds in fee and make deeds of trust on said lots to secure the payment of said notes with power to close the same and sell the lots for cash at ten days' notice, for the whole of the unpaid purchase-money upon default or non-payment of any one note, and in said trust all right of redemption shall be waived and surrendered.

Book 8, page 96.

144 Alderman Morgan, being seconded, offered the following resolution, which, on motion, was adopted:

Resolved, That the matters of sale and lease of the navy-yard property be handed over to Col. G. B. Lock by the mayor for publication for sale & lease.

Book 8, page 97.

CITY HALL, *Memphis, March 4th*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, March the 4th, 1856—

Present, Mayor Douglass, Chairman Woodruff, Saffarans, Hughes, Curtis, Neal, Elder, Danberry, Chandler, Shaw, Jenkins, Copeland, & Milton, aldermen—

The chairman took his seat, and called the board to order.

Thereupon Alderman Chandler, being seconded, offered the following resolution, which was read and received:

Resolved, By the board of mayor and aldermen of the city of Memphis re-tender the navy yard and its appurtenances to the United States Government, with this reservation: If at any time United States Government refuses to carry on the same as a navy yard, the said property with its appurtenances revert to the city of Memphis.

When it was moved and seconded that the resolution be referred to a special committee of three for investigation and report, when the chairman appointed Messrs. Milton, Hughes, and Mayor Douglass the committee.

Book 8, page 127.

145 CITY HALL, *Memphis, March 18th*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, March the 18th, 1856—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Hughes, Curtis, Saffarans, Neal, Danberry, Milton, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Alderman Milton, one of the committee to whom was referred the consideration of a re-tender of the Memphis navy-yard grounds and appurtenances to the General Government, asked, on behalf of the entire committee, to be discharged from any further consideration of the subject, which request was granted.

Whereupon the petition of Joseph Able, esq'r, asking the board to commit to his care and charge the navy-yard garden and shrubbery, &c., was read, received, and, on motion, laid on the table.

Book 8, page 32 & 34.

CITY HALL, *Memphis May 9th*, 1856.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, May the 9th, 1856—

Present, Mayor Douglass, Messrs. Chairman Woodruff, Elder, Hughes, Copeland, Neal, Chandler, Danberry, and Saffarans, aldermen—

The chairman took his seat and called the meeting to order, &c.,

Thereupon Alderman Hughes, being seconded, offered the following resolution which was, on motion, adopted by the board:

Resolved, That the mayor, Messrs. Elder, Chandler, Saffarans,
146 Woodruff, be a committee who shall take charge of and dispose of the navy-yard property.

Be it further enacted, that they are directed to cancel all sales not completed within days, and dispose of the same as soon as practicable, reporting to the board for their concurrence.

Book 8, page 60.

CITY HALL, *Memphis, July 3d*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Thursday, July 3rd, 1856—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Farmer, Shaw, Smoot, Bogart, and Copeland, alderman—

The chairman took his seat and called the board to order, &c.

Thereupon Alderman Elder, being seconded, offered the following resolution, which was, on motion, approved by the board.

Resolved, That a committee of five, with the mayor, be and they are hereby authorized to proceed at once to report a plan for disposing of all the property of and within the limits of the navy yard, by sale, lease, or otherwise, and report to the next regular meeting of this board.

Whereupon the chairman appointed Messrs. Elder, Copeland, Curtis, Hughes, Shaw, and Finnie the committee, when it was moved and seconded, that Chairman Saffarans be added, which motion was duly concurred in.

Book 8, page 196.

147 CITY HALL, *Memphis, July 21st*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Monday, July 21st, 1856—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Barry, Elder, Finnie, Fackler, Shaw, Smoot, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon Ja's Elder, one of the committee appointed to draft a plan best calculated to promote the interest of the city for the disposal of the navy-yard grounds, submitted the following report, which was concurred in by the board:

Report.

The committee to whom was referred the subject-matter of disposing of the navy yard with its appurtenances, beg leave to make the following report, to wit:

That the order of sale adopted by the late board on the 20th November last be, and the same is hereby, adopted for the present action of this board in the premises, in reference to all the property east of the

vertical wall and lying between Chickasaw and Promenade streets, running north and south the whole length of said navy yard; and the terms of sale to be the same as those.

And in reference to all the property west of said vertical wall, including all the buildings and appurtenances upon lease, having from ten to 25 years to run, to suit applicants, payable semi-annually from date of such lease, to be secured to the satisfaction of the mayor and finance committee; notice of the sale and lease to be advertised for 90
148 days in the Memphis city papers, the Louisville, St. Louis, and Cincinnati papers.

And we further recommend that the mayor take possession at once of all the tenements of the last sale.

All of which is respectfully submitted.

(Signed) JAMES ELDER,
(") S. B. CURTIS,
(") F. M. COPELAND,
(") THO'S JAMES FINNIE,
(") A. B. SHAW,
Committee.

Thereupon Alderman Elder, being seconded, offered the following resolution: (Agreed to by the board.)

Resolved, That the mayor be, and he is hereby, authorized to correspond with persons and solicit bids for the sale or lease of any portion of the navy-yard grounds or buildings, and close the same, if satisfactory to the board, &c.

Thereupon Col. G. B. Locke submitted the following proposition touching the contemplated disposition, above set forth, of the Memphis navy-yard grounds and appurtenances by lease or sale, which was, on motion, adopted.

Proposals.

To the hon'l' mayor & aldermen of the city of Memphis.

GENT'N: I propose to make the effort to dispose of the navy-yard property, upon a lease from the city, under the direction of the board for the actual expenses incurred by me, not to exceed $100; and in the event of my disposing of any portion of it, to charge 2½ p'r c't *nt.*
149 on such contract.

(Signed) G. B. LOCKE.

Whereupon Alderman Finnie, being seconded, offered the following resolution, which was, on motion, adopted.

Resolved by the board of mayor and aldermen of the city of Memphis, That the mayor take immediate measures to dispos'ess all parties who may have purchased lots in the navy yard, and who have not complied with the terms of sale.

Alderman Elder, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved by the board of mayor and aldermen of the city of Memphis, That the board of school visitors of the city schools are hereby authorized to appropriate one of the buildings in the navy yard to the use of the city schools for the next ensuing year, if, in the opinion of said board of visitors it should be deemed expedient to do so.

Book 8, page 218 & 219.

CITY HALL, *Memphis, Oct. 27th*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis—

Present, Mayor Carrol, Messrs. Hughes, Dupree, E'der, Fackler, Finnie, Smoot, Bogart, & Copeland, aldermen—

In the absence of the chairman Alderman Elder took his seat and called the board to order, &c.

Mayor's message.

Hon'l' board of aldermen.

GENTLEMEN: Allow me respectfullyto direct your attention to several city matters that, in my judgement, demand your prompt and decisive attention.

First. The Memphis navy-yard grounds and appurtenances. Shall they be at once disposed of, and in what manner?

In this connection permit me to suggest the propriety of making a permanent sale, at no distant day, of the lots lying east of the vertical wall already laid off, upon such terms, as to time, as you in your wisdom may deem most promotive of the city's ultimate interest; also to the propriety of subdividing appropriately the grounds and improvements west of the vertical wall, and speedily leasing the same for a term of years, for bona-fide manufactoring purposes, to which they are so well adapted; even should this have to be done at nominal rates, for the time being. The buildings and machinery attached seem to be going speedily to decay, and if left much longer alone, will become valueless for the different purposes to which the whole may be readily converted.

It is to a certain extent in the city's power to hold out permanent inducements to manufacturers to locate in your midst; therefore does it not become the city authorities to do so to the full extent of their ability, and at once? Quite too much valuable time has already been trifled away touching this, to Memphis, momentous matter.

I also recommend that early and prompt steps be taken to compel the present occupants of the commandant's house, either to comply
151 with the terms of the reputed sale made of the property in Nov. last, or to at once surrender the possession thereof to the city. In order the more effectually to bring about a speedy and certain consum'ation of the foregoing suggestions, allow me to recommend that the whole matter touching the navy-yard property be referred to the finance committee, or to a special committee, composed of one member from each ward, vested with plenary powers to act in the premises.

Action deferred present.

Book 8, page 260 & 261.

CITY HALL, *Memphis, Octo. 9th*, 1856.

At a further adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Thursday, October , 1856—

Present, Messrs. Elder, Hughes, Dupree, Curtis, Barry, Fackler, Finnie, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order.

Thereupon his hon. the mayor's late message was taken up, section by section.

The first, calling attention to the Memphis navy yard and appurtenances was taken up, and the following resolutions were offered and respectfully adopted.

Resolved, That the finance committee be charged with the disposition

of the navy-yard property and report their action to the board, and that all other committees on that matter be discharged.

152 *Resolved by the board of mayor and aldermen*, That the city attorney be authorized to take such steps, either legal or otherwise, as shall, at the shortest time, give the city possession of the commandant's house in the navy yard.

Book 8, page 275.

CITY HALL, *Memphis, October the 18th*, 1856.

At a called meeting of the board of mayor and aldermen of the city of Memphis, on Saturday, October the 18th, 1856—

Present, Hon'l Mayor Carroll, Messrs. Hughes, Curtis, Dupree, Elder, Barry, Finnie, Shaw, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

When the finance committee, to whom was referred that portion of his honor's message, calling the especial attention of the council to the necessity of taking some definite action towards an early disposition of the Memphis navy-yard property, made the following report, which was concurred in by the board, to wit:

Report.

The committee to whom was referred the disposition of the navy-yard grounds and appurtenances, would very respectfully report that they have adopted the following resolution, to wit:

Resolved.

Resolved by the board of mayor and aldermen of the city of Memphis, That the mayor be, and he is hereby, authorized to advertise all

153 *the* of the property east of the vertical wall and north of the line of Jackson street, extended west, known as the Memphis navy-yard property for sale, on the following terms and conditions, to wit:

One-fourth cash, the balance in one, two, or three years, with interest from date. Deed to be executed to the purchasers, with proper liens to secure the deferred payments, and that the balance of the grounds, &c., east of the vertical wall, lying south of Jackson street, be leased for the term of ninety-nine years in lieu of selling it.

(Signed) JAMES ELDER,
L. DUPREE,
C. M. FACKLER,
W. F. BARRY,
Committee.

Book 8, page 277.

CITY HALL, *Memphis, Nov. 8th*, 1856.

At a called meeting of the board of mayor and aldermen of the city of Memphis, on Saturday, November the 8th, 1856—

Present, Mayor Carroll, Messrs. Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Fackler, Finnie, Shaw, Smoot, Bogart, and Copeland, aldermen—

Chairman Saffarans took his seat and called the board to order, &c.

Whereupon Alderman Elder, chairman of the finance committee, to whom was referred the subject of disposing of the Memphis navy-yard grounds and appurtenances, submitted a report; action upon which was, after some discussion, until Tuesday night at a special meeting, set for that purpose.

154 Book 8, page 286.

CITY HALL, *Memphis, November 15th*, 1866.

At a called meeting of the board of mayor and aldermen of the city of Memphis, on Saturday, Nov'r 15th, 1856—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Fackler, Finnie, Smoot, Shaw, Copeland, Bogart, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon Alderman Elder, chairman of the finance committee, to whom was referred the subject of the disposal of the Memphis navy-yard, at Memphis, made the following report, to wit:

The committee to whom was ref*f*er'ed the disposition of the navy yard, beg leave to make the following report, to wit:

The committee recommend the leasing of the whole property, buildings, grounds, &c., for ninety-nine years to a good stock company for mechanical purposes and residences as follows, to wit:

All the grounds and buildings west of the vertical wall, and between said wall and the river, if occupied at all, shall be occupied only for purposes of mechanism; and all the ground east of said wall, shall be occupied as residences by those who are engaged as operatives, clerks, &c., in mechanical pursuits within the limits of said navy yard, or for mechanical pursuits by said company, transferable only for such purposes and pursuits by said company.

155 The commandant's house and grounds attached *is* expressly excepted and retained by the city.

The company shall pay to the city of Memphis, for said grounds, buildings, &c., &c., for the terms above stated, of 99 years, the sum of dollars, payable as follows:

The company shall commence with a capital of not less than $300 M in *in* cash, and may increase it to a million or more at pleasure.

The company shall bind themselves to establish a dry-dock, machine shop, founderies, and such other shops as may be necessary for the repairing and building of steamboats, &c., &c.

The company shall be liable and pay into the city treasury the annual tax assessed upon all said property, collectable as other taxes of the city.

The mechanics and citizens of Memphis shall be permitted to take so much of the said stock of said company as they may desire, payable in cash so soon as the company is organized.

The said lease may be renewed at the expiration of a similiar term, upon the conditions and payments as the first, at the pleasure of the company for all time to come.

The committee further propose to employ George P. Sherman, esq'r, to get such joint-stock company, as proposed as above, and if he succeeds according to the terms and conditions proposed, he shall be paid the sum of $, by the city; should he fail, then he shall

156 receive nothing for his services or expenses.

The committee further recommend the suspension of the sale of said property, until the said Sherman can have a fair and reasonable time to test the practicability of this enterprise.

All of which is respectfully submitted.

JAMES ELDER,
C. M. FACKLER,
W. F. BRRRY,
L. J. DUPREE,
Committee.

Which was read, and, on motion, received, when—

Alderman Copeland moved to fill the first blank in the resolution with $100.

To which motion, after divers desultory remarks from various parties, members of the board and spectators, was proposed to be amended by a resolution offered by Alderman Hughes, proposing to sell all the ground laying east of the vertical wall, and north of Jackson street, and that the consideration of the report of the finance committee be postponed for future consideration.

Whereupon Alderman Fackler, being seconded, moved to lay the whole subject-matter on the table, which carried.

Book 8, page' 289 & 290.

CITY HALL, *Memphis, Nov. 18th*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, November 18th, 1856—

Present, Hon'l Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Fackler, Finnie, Smoot, Copeland,
157 and Bogart, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon his honor the mayor submitted to the board the proposition of D. B. Turner and J. Knox Walker, to purchase the navy-yard grounds and appurtenances, at the sum of $200 M, payable as follows, to wit, $25 M, payable Dec'r 15th, '56, and $25 M, payable on the 15th of June, 1857, both in cash; the remainder in ten equal annual instalments, commencing on the 15th Dec'r, 1857. Or, $200 M, on condition the city will receive the instalments after Dec'r & June next, in bonds of the city of Memphis, at par. Action on which proposition was, on motion, deferred until Tuesday evening next.

The committee to whom was referred the ac. of the North American, a newspaper published in Philadelphia, for $62 for advertising the Memphis navy yard, in 1855, reported in favor of payment.

JAMES ELDER,
W. B. BARRY,
C. M. FACKLER,
L. J. DUPREE,
Committee.

CITY HALL, *Memphis, Nov. 20th*, 1856.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Nov. 1856—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Dupree, Curtis, Elder, Barry, Finnie, Fackler, Smoot, Shaw, Copeland, and Bogart, aldermen—

158 The chairman took his seat and called the board to order, &c.

Whereupon it was moved that the subject of the disposal of the navy-yard grounds and appurtenances, being the next in order, be taken up and acted upon; which motion carried.

Whereupon the proposition of Messrs. D. B. Turner and J. Knox Walker, to purchase the entire navy-yard grounds and appurtenances, at the sum of $200 M, payable as follows, to wit: $25 M, on the 15th Dec'r, 1856; $25 M, on the 15 June, '57; and the balance in ten equal instalments, commencing on the 15th Dec'r, '57; or, $200 M, on condition the city accept the instalments after Dec'r and June of $25 M, each, in the best bonds of the city at par, was again read, received and, on motion of Alderman Barry, he being seconded, was laid on the table.

Thereupon Alderman Elder read a proposition from other parties to give $275 M, for the Memphis navy-yard grounds and appurtenances, when it was moved and seconded to likewise lay the same on the table.

Whereupon Alderman Elder withdrew the proposition, &c.

Thereupon Alderman Finnie, being seconded, offered a resolution proposing to defer or postpone the sale of a part of the navy-yard grounds and appurtenances, as advertised to *the plan* on the 20th day of December, 1856, and that property lying west of the vertical wall be leased for a term of 30 years for mechanical purposes, and when the proper time arrives, to lease to parties so engaged in manufacturing,
159 if they desire it, the property east of the vertical wall.

Alderman Barry, being seconded, offered a resolution to sell all the machinery in the navy yard, together with all the stone, iron, fencing, &c., that can be prudently taken away without injury to the grounds, and that the same be sold by the mayor at an early day, and that the grounds be laid out in lots of convenient size, and leased for 25 years, as opportunity may offer.

Whereupon the following was agreed upon by the board, as to terms, conditions, &c., upon which the navy-yard grounds and appurtenances are to be disposed of, to wit,

Resolution.

Resolved by the board of mayor and aldermen of the city of Memphis, That the navy-yard grounds and appurtenances be disposed of on the 20 day of December, 1856, on the following terms and conditions, to wit:

That all the lots lying east of the vertical wall be sold on the following terms, to wit, one fourth in cash, the balance in three equal annual instalments, bearing 6 p'r cent. per annum, int. from date until paid. The city on compliance with the terms of the sale, to convey to the purchaser or purchasers, deeds in fee to the promerty, retaining an indefeasible lien thereon, in manner and form best calculated to secure the prompt and certain payment of the deferred portions of the purchase-money, with wa'ver of the right of redemption, &c. And that
160 the balance of the navy yard property, grounds, and improvements lying west of the vertical wall, be first laid out under the direction of the mayor improvement committee, into lots suitable and adapted as to size, &c., to manufacturing purposes, and lease the same for the term of thirty years, to the highest and best bidder; the lease money to be paid semi-annually, on the 15th of June and December in each year, from the commencement of the lease to the termination of the same; the lessee to secure the prompt and certain payment of the semi-annual rents regularly at maturity, to the satisfaction of the mayor and finance committee. And in case of failure, the said lease shall, at the option of the board of mayor and aldermen, be declared forfeited, and stand for nought, and the use of the property so leased revert back to the city. And further, that all the machinery in the said navy yard, belonging to the city, together with all the coping and other stone, iron railing, &c., &c., that can be disposed of without injury or detriment to the grounds, &c., may be sold by the mayor at an early day in matter and form best calculated to promote the interests of the city, either for cash or on time.

Whereupon Alderman Elder, being seconded, offered an amendment to Alderman Barry's resolution, authorizing the mayor to advertise all the property west of the vertical wall, and between said wall and the river, in and pertaining to the navy-yard buildings and grounds,

161 to lease the same for thirty (30) years to the highest bidder, the payments semi-annually. Notes for the lease to be endorsed satisfactorily to the mayor and aldermen and finance committee. Said grounds and buildings mentioned above, to be leased at the time of the sale of the property east of the vertical wall, and that the mayor give notice accordingly.

When Alderman Hughes offered an amendment to the effect that the improvement committee have the grounds laid out in lots to suit manufacturing purposes and submit the plan to the board for approval.

When Alderman Fackler offered an amendment, which, after some discussion, he withdrew.

Alderman Copeland, being seconded, offered a resolution, proposing to lay the whole matter on the table until next Thursday night, and that a committee of five be appointed to report back to the board a plan of the manner and disposition of the property, which he withdrew.

When Alderman Dupree offered a resolution proposing to postpone the sale of the property one month, and that the time of leasing be deferred for one month longer than specified in the resolution to which this is an amendment, which he likewise withdrew.

Book No. 8, page 274 & 295.

CITY HALL, *Memphis, Dec'r 17th*, 1856.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis on Wednesday, December, 1856—

162 Present, Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Finnie, Shaw, Smoot, Copeland, and Bogart, aldermen—

The chairman took his seat and called the board to order, &c.

Be it ordained by the board of mayor and aldermen of the city of Memphis, That all the ordinances heretofore passed by the board, authorizing the sale or lease of the navy-yard grounds, or any part thereof, be, and the same are hereby, repealed.

After much desultory discussion on the part of various members of the council, Alderman Curtis, being seconded, moved that the board adjourn until the next regular meeting; which was lost.

The board then took a recess of 10 minutes.

Whereupon the members again met.

Mr. Fachler being present, the chairman called the board to order, and the previous question on Alderman Barry's ordinance was called and sustained.

Alderman Hughes moved to lay it on the table; which was lost.

The yeas & nays being called for, stood as follows, to wit: Yeas, Messrs. Hughes, Dupree, Curtis, Smoot, and Bogart—6. Nays, Messrs. Elder, Barry, Fackler, Finnie, and Copeland—5.

Alderman Bogart, being seconded therein, moved an adjournment; which was lost.

The yeas and nays being called for, stood as follows, to wit: Yeas, Messrs. Curtis, Smoot, Shaw & Bogart—4. Nays, Messrs. Hughes, Barry, Elder, Fackler, Dupree, Finnie, Copeland, and Saffarans—8.

Whereupon Alderman Hughes, being seconded, moved an indefinite postponement of Alderman Barry's ordinance; which was lost.

The yeas and nays being called for, stood as follows, to wit:

163 Yeas, Messrs. Hughes, Dupree, Curtis, Smoot, and Shaw. Nays, Messrs. Elder, Barry, Fackler, Finnie, Bogart, Copeland, and Saffarans.

The question then recurring upon the ordinance, it passed by the following vote, to wit: Messrs. Elder, Barry, Fackler, Finnie, Bogart,

Thereupon Alderman Elder read a proposition from other parties to give $275 M, for the Memphis navy-yard grounds and appurtenances, when it was moved and seconded to likewise lay the same on the table.

Whereupon Alderman Elder withdrew the proposition, &c.

Thereupon Alderman Finnie, being seconded, offered a resolution proposing to defer or postpone the sale of a part of the navy-yard grounds and appurtenances, as advertised to *the plan* on the 20th day of December, 1856, and that property lying west of the vertical wall be leased for a term of 30 years for mechanical purposes, and when the proper time arrives, to lease to parties so engaged in manufacturing,
159 if they desire it, the property east of the vertical wall.

Alderman Barry, being seconded, offered a resolution to sell all the machinery in the navy yard, together with all the stone, iron, fencing, &c., that can be prudently taken away without injury to the grounds, and that the same be sold by the mayor at an early day, and that the grounds be laid out in lots of convenient size, and leased for 25 years, as opportunity may offer.

Whereupon the following was agreed upon by the board, as to terms, conditions, &c., upon which the navy-yard grounds and appurtenances are to be disposed of, to wit,

Resolution.

Resolved by the board of mayor and aldermen of the city of Memphis, That the navy-yard grounds and appurtenances be disposed of on the 20 day of December, 1856, on the following terms and conditions, to wit:

That all the lots lying east of the vertical wall be sold on the following terms, to wit, one fourth in cash, the balance in three equal annual instalments, bearing 6 p'r cent. per annum, int. from date until paid. The city on compliance with the terms of the sale, to convey to the purchaser or purchasers, deeds in fee to the promerty, retaining an indefeasible lien thereon, in manner and form best calculated to secure the prompt and certain payment of the deferred portions of the purchase-money, with wa'ver of the right of redemption, &c. And that
160 the balance of the navy yard property, grounds, and improvements lying west of the vertical wall, be first laid out under the direction of the mayor improvement committee, into lots suitable and adapted as to size, &c., to manufacturing purposes, and lease the same for the term of thirty years, to the highest and best bidder; the lease money to be paid semi-annually, on the 15th of June and December in each year, from the commencement of the lease to the termination of the same; the lessee to secure the prompt and certain payment of the semi-annual rents regularly at maturity, to the satisfaction of the mayor and finance committee. And in case of failure, the said lease shall, at the option of the board of mayor and aldermen, be declared forfeited, and stand for nought, and the use of the property so leased revert back to the city. And further, that all the machinery in the said navy yard, belonging to the city, together with all the coping and other stone, iron railing, &c., &c., that can be disposed of without injury or detriment to the grounds, &c., may be sold by the mayor at an early day in matter and form best calculated to promote the interests of the city, either for cash or on time.

Whereupon Alderman Elder, being seconded, offered an amendment to Alderman Barry's resolution, authorizing the mayor to advertise all the property west of the vertical wall, and between said wall and the river, in and pertaining to the navy-yard buildings and grounds,

161 to lease the same for thirty (30) years to the highest bidder, the payments semi-annually. Notes for the lease to be endorsed satisfactorily to the mayor and aldermen and finance committee. Said grounds and buildings mentioned above, to be leased at the time of the sale of the property east of the vertical wall, and that the mayor give notice accordingly.

When Alderman Hughes offered an amendment to the effect that the improvement committee have the grounds laid out in lots to suit manufacturing purposes and submit the plan to the board for approval.

When Alderman Fackler offered an amendment, which, after some discussion, he withdrew.

Alderman Copeland, being seconded, offered a resolution, proposing to lay the whole matter on the table until next Thursday night, and that a committee of five be appointed to report back to the board a plan of the manner and disposition of the property, which he withdrew.

When Alderman Dupree offered a resolution proposing to postpone the sale of the property one month, and that the time of leasing be deferred for one month longer than specified in the resolution to which this is an amendment, which he likewise withdrew.

Book No. 8, page 274 & 295.

CITY HALL, *Memphis, Dec'r 17th*, 1856.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis on Wednesday, December, 1856—

162 Present, Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Finnie, Shaw, Smoot, Copeland, and Bogart, aldermen—

The chairman took his seat and called the board to order, &c.

Be it ordained by the board of mayor and aldermen of the city of Memphis, That all the ordinances heretofore passed by the board, authorizing the sale or lease of the navy-yard grounds, or any part thereof, be, and the same are hereby, repealed.

After much desultory discussion on the part of various members of the council, Alderman Curtis, being seconded, moved that the board adjourn until the next regular meeting; which was lost.

The board then took a recess of 10 minutes.

Whereupon the members again met.

Mr. Fachler being present, the chairman called the board to order, and the previous question on Alderman Barry's ordinance was called and sustained.

Alderman Hughes moved to lay it on the table; which was lost.

The yeas & nays being called for, stood as follows, to wit: Yeas, Messrs. Hughes, Dupree, Curtis, Smoot, and Bogart—6. Nays, Messrs. Elder, Barry, Fackler, Finnie, and Copeland—5.

Alderman Bogart, being seconded therein, moved an adjournment; which was lost.

The yeas and nays being called for, stood as follows, to wit: Yeas, Messrs. Curtis, Smoot, Shaw & Bogart—4. Nays, Messrs. Hughes, Barry, Elder, Fackler, Dupree, Finnie, Copeland, and Saffarans—8.

Whereupon Alderman Hughes, being seconded, moved an indefinite postponement of Alderman Barry's ordinance; which was lost.

The yeas and nays being called for, stood as follows, to wit:

163 Yeas, Messrs. Hughes, Dupree, Curtis, Smoot, and Shaw. Nays, Messrs. Elder, Barry, Fackler, Finnie, Bogart, Copeland, and Saffarans.

The question then recurring upon the ordinance, it passed by the following vote, to wit: Messrs. Elder, Barry, Fackler, Finnie, Bogart,

Copeland, Dupree, and Saffarans. Nays, Messrs. Hughes, Curtis, Shaw, and Bogart.

Thereupon Alderman Hughes offered the following protest, and asked that the same be spread upon the record, which was as follows, to wit:

Protest.

I protest against the action of the board in repealing the resolution to sell or lease the navy-yard grounds, on the 20th December, believing it is prejudicial to the best interests of the city to longer delay the disposal of the grounds.

Whereupon Alderman Barry, being seconded, offered a resolution to the effect that the whole navy-yard grounds on the second Saturday in January next, for thirty years, payable semi-annually, and that the mayor and finance committee be authorized to place a price on the same.

Whereupon, after considerable discussion, Alderman Curtis, being seconded, offered the following as a substitute for Alderman Barry's resolution:

Resolved, That the navy-yard grounds be all leased instead of sold, the same to take place on Saturday, the 20th December, as advertised, under the direction of the mayor pro tem. and the finance committee.

Which resolution, after the proposing of various amendments,
164 plans, &c., was finally concurred in by the council.

Book 8, page 308 & 309.

CITY HALL, *Memphis, December 31st*, 1856.

At a called meeting of the board of mayor and aldermen of the city of Memphis, on Wednesday, December the 31st, 1856—

Present, Messrs. Saffarans, Hughes, Dupree, Elder, Barry, Fackler, Finnie, Shaw, Copeland, and Bogart, aldermen.

Whereupon Alderman Hughes, being seconded, offered a resolution to the effect that a committee of three be appointed to advertise and lease, on Saturday week, the navy-yard, grounds, and appurtenances, as heretofore authorized by the board, on the terms and conditions directed by a former resolution of this board.

Alderman Dupree, being seconded, presented for the consideration of the council his plan for disposion' of the navy-yard property, and a loan of the city credit to the Memphis and Little Rock Railroad Company, to aid in the construction of said road.

Alderman Hughes insist*ing* that his resolution should first be considered.

When Alderman Copeland, being seconded, offered a resolution as an amendment or substitute for Mr. Hughes' resolution, proposing that the mayor and finance committee are fully authorized to lay off and lease out the entire navy yard in such parcels and such as they may deem best calculated to advance the interests of the city—no lease to run any longer than thirty years from January 1st, 1857.

165 Which resolution Alderman Copeland , after some discussion. Alderman Hughes likewise withdrew his resolution, and called for a decession of the resolution offered by Alderman Dupree; which call, after some discussion, was concurred in by the council, and the resolution formally adopted.

Book 8, page 310 & 311.

CITY HALL, *Memphis, January 6th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Thursday, January the 6th, 1857—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Finnie, Douglas, Copeland, and Bogart, aldermen—

The chairman being present took his seat and called the board to order, &c.

Whereupon Alderman , being seconded, offered the following resolution, which was, on motion, concurred in by the board:

Resolved, That the navy-yard property be leased on next Saturday at 10 o'clock, on terms heretofore ordained and approved by the board; that said lease be made under direction and supervision of the mayor and special committee; that said committee be authorized to determine what fixtures on said property shall be estimated for the use of the city.

Resolved further, That the mayor and said committee be authorized to sell, at their own discretion, the few articles of personal property in said navy yard.

166 Whereupon the chairman appointed the following gentlemen on the committee: Messrs. Hughes, Finnie, and Curtis.

Book 8, page 300.

CITY HALL, *Memphis, January* 4, 1857.

At a special meeting of the board of mayor & aldermen of the city of Memphis, on Friday evening, January the 4th, 1857—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Fackler, Finnie, Shaw, Douglass, and Bogart, aldermen.

Upon motion, Alderman Elder was called to the chair, when his honor the mayor explained the object of the meeting to be for the purpose of considering the subject of the disposal of the Memphis navy-yard ground and appurtenances, and application of the proceeds, &c., to the Memphis and Little Rock Railroad.

Whereupon Alderman Douglass, being seconded, offered the following resolution, which passed the first reading, proposing that the mayor be instructed to offer, by publication or otherwise, such an amount of the navy-yard grounds fronting on Wolf and the Mississippi River, to any reliable company, free of charge, except the taxes, for a period of twenty years, who will erect and keep up a boat-building and repairing yard, either by dry-dock ways or floating docks.

When it was moved and seconded that the same be published; which motion was concurred in by the board.

Whereupon the following resolution was submitted to the board by Attorney Bankhead, was, on motion, adopted:

167 *Resolved*, That the navy-yard property be leased for the period of time heretofore fixed upon, with covenant in the lease that the grounds and improvements shall be subject to taxation as per valuation; that the lessees shall execute their notes for the first two years' rent, which shall be satisfactorily endorsed; that the leased premises shall, at the option of the board of mayor and aldermen, be forfeited upon a failure to pay the rent or lease money as the same become due, together with their improvements, machinery, and C', as may be made or placed upon the premises, and that all such contracts for lease that are not closed by Saturday, 24 inst., shall be null and void, and such party or parties so leasing, liable for damages, if any should occur, to the city.

Book 8, page 319.

CITY HALL, *Memphis, January 12th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, January 12th, 1857—

Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Finnie, Fackler, Shaw, Douglass, Bogart, and Copeland, aldermen—

The chairman took his seat, and called the board to order.

Whereupon the following resolution was offered and adopted:

Resolved, That, as there is evidently a misunderstanding between the navy-yard committee and Messrs. Moore, Halstead & Co., lessees, as to the late navy-yard grounds and improvements, they, Messrs. M.,
168 H. & Co., may or may not, at their option, close their contract, agreeable to the understanding of the committee, the price to the , if not so closed by that time, the property leased by them will be sold on Saturday, the 30th inst.

Alderman Finnie appeared, and took his seat at the board.

Whereupon the business for which the board convened, the consideration of the ordinance proposed at the last meeting of the council in relation to the Memphis and Little Rock Railroad Company, proposing that the city mortgage the entire navy-yard property and improvements for the redemption of $300 M of the Memphis and Little Rock Railroad Company's bonds, to be issued by said company, having fifteen years to run, bearing per cent. interest per annum, payable semi-annually, in the city of Charleston, and to mortgage $300 M per annum of the revenue arising from the lease of said property, for the payment of the interest on said railroad company for the whole amount of *sums* since payed by the city, either as principal or interest, was, on motion, taken up; when Aiderman Hughes offered an amendment that fifteen years be stricken out, and thirty years be inserted.

The yeas and nays being called for, stood as follows: Yeas, Messrs. Hughes, Barry, Curtis, Shaw, Dupree, and Copeland. Nays, Elder, Fackler, Finnie, Bogart, Douglass, and Saffarans.

Whereupon Alderman Dupree, being seconded, offered a substitute both for the ordinance and amendment—that the navy-yard
169 property be mortgaged to secure the sum of $4,000,000 to protect the $300,000 of bonds of the Memphis and Little Rock Railroad Company, having thirty years to run, bearing per cent. interest per annum, hereafter to be issued by the railroad company, and secure $100 M of the bonds of the city or of any railroad company the city may choose hereafter to aid, and that the ordinance go into effect when a full and complete settlement is made with assignees of Bradley, Stukney & Co., and that the city be bona-fidely secured by the mortgage on the road and lands of the Memphis and Little Rock Railroad Company to the extent of bonds, say $300 M of said company, that the city may guarantee the payment of said mortgage in whole or in part, at the option of the board of mayor and aldermen of the city.

And further, that ordinance submitted go into effect only when $125 M of the solvent subscriptions satisfactory to the board of mayor and aldermen of the city of Memphis.

When it was moved and seconded that Mr. Dupree's resolution and the amendment thereto was out of order, the chairman sustaining the motion.

Whereupon Alderman Douglass, being seconded, moved that the original ordinance be laid on the table; which carried.

The yeas and nays being called for, stood as follows, to wit: Yeas,

Messrs. Barry, Curtis, Bogart, Shaw, Dupree, Douglass. Nays, Elder, Fackler, Finnie, Copeland, and Saffarans.

Thereupon Alderman Hughes, being seconded, moved a reconsideration of the vote on the ordinance; which carried.

170–171 When Alderman Barry, being seconded, offered an ordinance as a substitute for the whole of the previous propositions, proposing that as soon as $125 M of solvent individuals or corporations' subscriptions, satisfactory as such to the board of mayor and aldermen of the city, in addition to the present individual subscriptions obtained, the mayor of the city of Memphis be authorized to mortgage the Memphis navy-yard property to secure the ultimate payment of the $250 M of the bonds of the Memphis and Little Rock Railroad Company, having 15 years to run to maturity, with 7 p'r cent. per annum interest, payable semi-annually in the cities of New York and Charleston, and that the money arising from the rent or lease of the navy-yard property be appropriated to the payment of the interest on said bonds of said .

Whereupon Alderman Douglass, being seconded, that the amount of bonds to be issued by the company be $360 M, instead of $250 M; which motion carried.

Whereupon the provision requiring $125 to be subscribed by individuals to same road was taken up and lost by a tie vote.

Yeas, Hughes, Finnie, Elder, Copeland, & Saffarans—6. Nays, Barry, Curtis, Bogart, Shaw, Dupree, & Douglas—6.

Whereupon the vote was taken upon the provision requiring a mortgage of the road and its property, to secure the city against ultimate loss, to be released upon the completion of the first division of the road from the Mississippi to the St. Francis River, which stood as follows:

Yeas, Curtis, Bogart, Shaw, Dupree, Douglas—5. Nays, Hughes,
172 Elder, Fackler, Barry, Finnie, Copeland, and Saffarans—7.

Thereupon the original ordinance was taken up, a first reading, to wit:

Be it ordained by the board of mayor and aldermen of the city of Memphis, That they will and do hereby mortgage the entire navy-yard property belonging to the city, known as the navy-yard grounds and improvements thereon, situated at the junction of the Mississippi and Wolf River, for the redemption of $300 M, of the bonds of the Memphis and Little Rock Railroad Company, to be issued to said company, having fifteen years to maturity, bearing 7 per cent. per annum interest, payable semi-annually, in the city of Charleston; and we further agree to mortgage the sum not exceeding $30 M per annum of the revenue arising from the lease of said navy-yard property for the payment of interest on the bonds to be issued by the railroad company, and the remainder, if any, of said $30 M, shall be used as a sinking fund for the redemption of said bonds, and that they do hereby agree to take stock in said Memphis and Little Rock Railroad Company for the whole amount of said sums to be paid by said city, either as principal or interest.

Be it further ordained, That the ordinance take effect so soon as a full discharge is executed by the previous contractors, (Messrs. Bradly & Co.,) or their assignees, for the building of the Memphis and Little Rock Railroad, agreeable to the proposition made by the board
173 and agreed to by Col. Austin. All ordinances to the contrary or coming in conflict with ordinance be, and the same are hereby, repealed.

Whereupon the yeas and nays were called for, and stood as follows:

Yeas, Messrs. Hughes, Elder, Finnie, Fackler, Barry, Copeland, and Saffarans—7. Nays, Messrs. Curtis, Shaw, Bogart, Dupree, & Douglass—5.

Previous to the first passage of the *first passage of the* ordinance, Alderman Douglass, being seconded, moved to amend the same by striking from the mortgage all the navy-yard grounds and appurtenances, mortgaging alone the lease receipts thereof; which motion was lost.

Alderman Douglass, being seconded, moved that the sum of $25 M of the revenue of the navy-yard, instead of $30 M, be annually appropriated as contemplated in the ordinance; which was likewise lost.

Alderman Douglass, being seconded, then moved that the ordinance be in operation until it be first *be* referred to and sanctioned by a vote of the citizens of Memphis, on the first Saturday February next; which motion was likewise lost.

And the board, on motion, adjourned.

J. L. SAFFARANS,
Chairman.

L. R. RICHARDS,
City Register.

Book 8, page 331, 332, & 333.

CITY HALL, *Memphis, February 3rd*, 1857.

174 At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening the 3d day February, 1857—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Curtis, Dupree, Elder, Barry, Fackler, Shaw, Douglass, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon the following resolution was, on motion, offered and adopted:

Resolved by the board of mayor and aldermen, That the mayor be, and is hereby, authorized to take down such portion of the navy-yard wall as may be in the street or on property leased, and which cannot be disposed of to the lessees, in such manner as, in his judgement, may be for the best interest of the city.

Resolved, That the mayor be, and is hereby, authorized to advertise the machinery of the navy-yard, except the engine and , for sale by private sale, with the sanction of the finance committee.

Resolved by the board of mayor and aldermen, That the mayor be, and is hereby, authorized to advertise and sell the patterns and personal property in and belonging to the navy-yard at four months' time, with note payable in bank, and well endorsed, to the satisfaction of finance committee.

Thereupon Alderman Hughes, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved, That the space of ground lying with and parallel with
175 Market street, from Mississippi River to the , be, and is hereby, declared a street, and is always to remain open from the line of lots leased by the city in the navy-yard to the present line of Market street.

Resolved further, That the committee in charge of the disposal of the navy-yard, with the mayor, have a plat recorded, establishing the lots, streets, &c., as laid down on the plot by which they were leased.

Book 8, page 339 & 340.

CITY HALL, *Memphis, February 17th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, February 17th, 1857—

Present, Mayor Carroll, Messrs, Chairman Saffarans, Hughes, Curtis, Elder, Fackler, Shaw, *Shaw*, Douglass, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon Alderman Hughes, being seconded, offered the following resolution, which was, on motion, adopted:

Resolved, That the chain-gang be directed to take down the navy-yard plank fence along Market street, and place the same around the school-room or house in the navy-yard, neatly around the house and grounds reserved by the city for school purposes.

Whereupon Alderman Hughes presented the proposition of

176 to take down and properly store the machinery with the engine and boilers in the Memphis navy-yard or ropewalk, for the sum of $1,200; which, after some explination on the part of mayor Carroll, was withdrawn.

Book 8, page 344.

CITY HALL, *Memphis, April 7th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, April 7th, 1857—

Present, Mayor Carroll, Messrs. Chairman Saffarans, Hughes, Dupree, Curtis, Elder, Barry, Finnie, Fackler, Douglass, Bogart, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon Alderman Douglass, being seconded, offered the following resolution, which was *severally* passed by the board:

Resolved by the board of mayor and aldermen of Memphis, That the mayor and committee who have had the supervision of the navy-yard grounds, be, and they are hereby, requested to report to the board at the next meeting a full report of their action in respect to the number of *of* lots leased, the price, and to whom leased; how much remaining undisposed of; and what disposition, if any, has been made, of the movables in said yard, to whom and at what price; and any other matter of interest pertaining to said navy-yard grounds.

J. L. SAFFARANS, *Chairman.*

L. R. RICHARDS, *City Register.*

Book 8, page 360.

177 CITY HALL, *Memphis, June 16th*, 1857.

At a meeting of the board of mayor and alderman of the city of Memphis, on Tuesday, June 16th, 1857—

Present, Mayor Douglass, Messrs. Chairman Saffarans, Hughes, Douglass, Elder, Shaw, Wormely, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon a petition of sundry persons of color, asking the board to grant them the privilege of having, on the 4th of July coming, a ball in the navy-yard, was read, rec'd, and, after an ineffectual motion to lay the petition upon the table, they were referred to the navy-yard committee.

Whereupon the application of Joseph S. Powers to lease for a term of years the blacksmith shop in the navy-yard, recently leased from the city by W. C. Bradford, esq'r, was read, rec'd, and, on motion, referred to the navy-yard committee for investigation and report.

Thereupon Alderman Hughes, being seconded, offered the following resolution; which, on motion, was concurred in.

Resolved, That the mayor, city attorney, and committee on the navy-yard settle all claims as drawn back on the rent or lease notes of the property leased of the city in the navy-yard, according to the time from which possession was given the lessee, and enter credit on the notes for such amounts.

Book 8, page

178 CITY HALL, *Memphis, July 21st*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, July 21st, 1857—

Present, Mayor Baugh, Messrs. Chairman Woodruff, Hughes, Erwin, Lofland, Street, Finnie, Fackler, Hamilton, Copeland, and Martin, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon the following resolution was, on motion, offered and adopted:

Resolved by the board of mayor and aldermen, That the committee appointed at our last regular meeting to correspond with parties be authorized to sell the same for the sum $350 M, subject to the approval of the mayor and finance committee

Book 8, page 418.

CITY HALL, *Memphis, October 6th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, October the 6th, 1857—

Present, Mayor Baugh, Messrs. Hughes, Erwin, Lofland, Hill, Finnie, Fackler, Hamilton, Martin, and Copeland, aldermen—

Alderman Copeland, being chairman, called the board to order.

Thereupon the petition of Messrs. James Elder, W. J. Wicks, and many others, asking an appropriation of $2,000 by the city towards the erection of a bridge across Wolf River at the most appropriate site between the mouth of Loose Hatchie River, and the north bound-

179 ary of the navy-yard, to cost the sum of $7,500—the courts of Shelby having appropriated $1,875 towards the same object, the money to raised by individual subscription the sum of about $3 M—was read, received, and, on motion, referred to the finance committee for investigation and report.

Alderman Hughes, being seconded, offered a resolution touching an immediate disposition of the undisposed portion of the navy-yard grounds, action upon which, was postponed for the present.

Book 8, page

CITY HALL, *Memphis, Nov.* , 1857.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Nov'r , 1857—

Present, Mayor Baugh, Messrs. Chairman Woodruff, Erwin, Street, Lofland, Jones, Hill, Finnie, Hamilton, Falkner, Martin, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon Mr. Street offered the following resolution:

Resolved by the board of mayor and aldermen, That the mayor and the committee on the navy yard be authorized to rent the commandant's house for one year, taking notes with security for the same, and also,

in connection with the mayor, to rent for twelve months any house or houses on said grounds; which passed.

Book 8, page 482.

180 CITY HALL, *Memphis, December 15th*, 1857.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, December 15th, 1857—

Present, Mayor Baugh, Messrs Chairman Woodruff, Hughes, Erwin, Saffarans, Lofland, Street, Finnie, Falkner, Hamilton, Copeland, and James, aldermen—

The chairman took his seat and called the board to order, &c.

Thereupon the finance committee, to whom was referred the application of John Robertson, president of the Memphis and Little Rock Railroad, together with a resolution of the board of mayor and aldermen directing or proposing that the mayor issue the notes of the city to said railroad company to the amount of $10 M, having 10, 11, 12, & 13 months to run to maturity to pay the interest on the bonds of the railroad company issued and predicated upon the city mortgage of the Memphis navy yard, &c., made the following report:

The finance committee, to whom was referred the petition of John Robertson, esq'r, president of the Little Rock Railroad, would respectfully report that, taking into consideration the importance of this road to our city, as well as the fact that this city is the principal stockholder in the road, and that the revenue arising from the navy yard has been to a certain extent already set apart to pay the interest on the bonds as they fall due, the committee is of the opinion and would recommend the payment of the interest on the bonds which have been sold by the railroad

181 company, amounting to twenty-three thousand dollars, (23 bonds.)

In our opinion, it is not in the power of the city to appropriate the revenue arising from other sources than that of the navy yard to the interest of the bonds.

The committee does not see the necessity of transferring the possession of the navy-yard property to the trustees, as the petition's request, but think it can be leased by the committee who have charge of the property on as good terms as any party.

J. M. HILL, *Chairman.*

Book 8, page 487 & 488.

CITY HALL, *March 21st*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, March 21st, 1858—

Present, Mayor Baugh, Chairman Woodruff, Hughes, Erwin, Lofland, Street, Hill, Finnie, Fackler, Hamilton, and Copeland, aldermen—

The chairman took his seat and called the board to order, &c.

Whereupon the committee to whom was referred the matter of leasing commandant's house to J. M. Woodward, reported favorably upon Mr. Woodward's proposition; which proposition read as follows, to wit:

Proposition.

To the Board of Mayor and Aldermen of the City of Memphis:

Proposition to lease the commandant's house in the navy yard for a term of ten or twenty years at one thousand dollars, $1,000, per year, payable quarterly, to give security for the first two years rent; the city allowing me three hundred ($300) dollars out of my first rent-note,

182 to enable me to build a fence around the lot, repair cistern, &c., my guaranteeing to expend that amount on such necessary im-

provements in the lease. I am to have nothing to do with paying either taxes or insurance on the property. If your honorable board agree to this proposition, I am ready to enter into contract obligatory.

Memphis, February 12th, 1858.

J. M. WOODWARD.

Committee's report.

We, the undersigned, committee on the navy-yard property, met at Alderman Finnie's office, and agreed that J. Marshall Woodward's proposition for the commandant's house be accepted, and that without his taking possession of the premises before the lease is fully closed on the terms of the late sale, he be allowed to clear up and commence the necessary repairing until the writings can be drawn up.

Memphis, Feb'y 18th, 1858.

A. STREET, &
D. A. HAMILTON,
T. J. FINNIE,
J. M. HILL,
A. WOODRUFF, &
R. D. BAUGH, *Mayor*,
Committee.

Which report was concurred in by the board.

The yeas and nays being called for stood as follows, to wit:

Yeas, Messrs. Erwin, Street, Lofland, Hill, Finnie, Hamilton, and Woodruff—7. Nays, Hughes, Falkner, & Copeland—3.

When it was moved and seconded that his honor Mayor Baugh, proceed to close the lease of commandant's house, upon the terms and conditions specified in the proposition and the committee's report thereon; which motion was adopted.

Book 8, page 446 & 447.

183 CITY HALL, *Memphis, Oct'r 7th*, 1856.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Oct'r 7th, 1856—

Present, Daniel Hughes, L. B. Curtis, L. J. Dupree, James Elder, W. F. Barry, C. M. Fackler, T. J. Finnie, John Smoot, F. M. Copeland, & D. Bogart, aldermen—

In the absence of the chairman of the board, Ja's Elder was called to the chair, when he took his seat and called the board to order, &c.

Whereupon a message from his honor the mayor was presented, read, received, and ordered to be spread upon the records.

When it was moved and seconded that action thereon be deferred for the present; which motion was concurred in by the council.

Message.

Hon'l Board of Aldermen.

GENTLEMEN: Allow me respectfully to direct your attention to several city matters that, in my judgement, demand your prompt decisive action. First, the Memphis navy-yard grounds and appurtenances: Shall they be at once disposed of, and in what manner?

In this connection permit me to suggest the propriety of making a permanent sale at no distant day, of the lots lying east of the vertical wall

as already laid off, upon such terms as to time, &c., as you in your wisdom deem most productive of the city's interest; also, to the propriety of subdividing appropriately the grounds and improvements west
184 of the vertical wall and speedily leasing the same for a term of years, for the bona-fide manufacturing purposes to which they are so well adapted, even if this should *this* have to be done at nominal rates for the time being. The buildings and machinery attached seem to be going rapidly to decay, and if left much longer alone will become valueless for the effective purposes to which the whole may be readily converted. It is to a certain extent in the city's power to hold out permanent inducements to manufacturers to locate in our midst; therefore, does it not behoove the city authorities to do so to the full extent of their ability and at once. Quite too much time has already been trifled away touching this, to Memphis, momentous matter. I also recommend that early and prompt steps be taken to compel the present occupants of the commandant's house, to either comply with the terms of the reported sale of the property in November last, or to at once surrender the possession thereof to the city, in order the more effectually to bring about a speedy and certain consummation of the foregoing suggestions. Allow me to recommend that the whole matter touching the navy-yard property be referred to the finance committee or to a special committee, composed of one member from each ward, vested with plenary powers to act in the premises.

Book 8, page 260 & 261.

185 *Navy-yard committee.*

Elder, Street, and Hamilton.

Page 20, book 8.

CITY HALL, *Memphis, July 21st*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, July 21st, 1858—

Present, Mayor Baugh, Messrs. Chairman Hughes, Street, Jefferson, Morgan, Forest, Elder, Hamilton, Font, Townsend, Robison, aldermen.

Whereupon a communication from J. T. Erwin, esq'r, chairman, &c., of the committee on school-houses, on behalf of the school visitors, stating that they had secured from P. M. Leath, esq'r, his consent to transfer his lease of the buildings in the navy yard, known as the hemp house, &c., for school purposes, was read, rec'd and, on motion, referred to the committee on education, with understanding that they confer with this board's committee on the navy yard on this subject.

Page 27, book 9.

Whereupon the petition of A. J. Powers and others praying the appointment of a policeman in the navy yard, was read, rec'd, and, on motion, reported to the vigilance committee.

Book 9, page 28.

Whereupon a communication from J. M. Woodward asking the board to permit him to erect for on the lot which he recently
186 leased in the navy yard, and to exempt them from city taxes, &c.; also, a communication from Tho's Hill to Col. T. J. Finnie complaining of the excessive valuation by the city of two lots of his, asking relief, &c., was read, rec'd, and, on motion, referred to the finance committee for investigation and report.

Book 9, page 29.

CITY HALL, *Memphis, August 17th*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, August 17th, 1858—

Present, Mayor Baugh, Messrs. Street, Morgan, Neal, Elder, Finnie, Douglass, Townsend, Copeland, and Robinson, aldermen.

Whereupon the vigilance committee to whom was referred the petition of sundry citizens requesting the appointment of a special policeman in the navy yard, made the following report, to wit:

ALDERMAN STREET.—Alderman Street, being seconded, offered the following resolution which was, on motion, *seconded*.

Resolved by the board of mayor and aldermen, That in future no person or persons shall be allowed to haul water from the cistern in the navy yard, except those who have lease property in the navy-yard grounds.

Book 9, page 57.

187 *Resolved by the board of mayor and aldermen*, That the mayor advertise and sell the two engines and boilers in the navy yard; also, the balance of the machinery in said navy yard.

Book 9, page 57.

CITY HALL, *Memphis, Oct'r 19th*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, October 19th, 1858—

Present, Mayor Baugh, Messrs. Chairman Hughes, Drew, Street, Morgan, Kortrecht, Forrest, Elder, Finnie, Hamilton, Douglass, Copeland, and Neal, aldermen.

Resolved by the board of mayor and aldermen, That the parties who have leased property in the navy yard be required to pay from the date of the lease, and that no rent be collected in advance, and the mayor and committee on the navy yard settle matters accordingly.

(Signed) STREET.

Book 9, page 89.

CITY HALL, *Memphis, December 7th*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis on Tuesday, the 7th Dec'r, 1858—

Present, Mayor Baugh, Messrs. Drew, Morgan, Street, Kortrecht, Forest, Finnie, Hamilton, Douglass, Copeland, Robinson, aldermen.

188 Thereupon Alderman Morgan, being seconded, offered a resolution, that the two lots of ground in the navy yard subject to overflow from ten to twelve feet, leased by A. Street & Co., be, and are, declared exempt from any increase in their taxable value during the continuance of the lease of said A. Street & Co., in consideration of their filling so as to make them conform with other grounds leased by them.

Which, on motion, was referred to the navy-yard committee.

Book 9, page 129.

CITY HALL, *Memphis, Dec'r 7th*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis on Tuesday, Dec'r 7th, 1858—

Present, Mayor Baugh, Messrs. Drew, Morgan, Street, Kortrecht, Forrest, Finnie, Hamilton, Douglass, Copeland, and Robinson, aldermen—

The absence of the chairman was suggested, when Alderman Douglass was called to the chair, and called the board to order.

Thereupon the following preamble and resolution was offered, and, on motion, was adopted, to wit:

Preamble.

Whereas the revenue arising from the rents and city taxes of the navy-yard property appropriated to the payment of the semi-annual interest of $300 M of the Memphis and Little Rock Railroad Company, the payment of which, principal and interest, has been assumed by the
189 city council of Memphis, may not be sufficient to meet the interest of said bonds, which will be due on the first of January next:

Resolution.

Be it resolved by the board of mayor and aldermen of the city of Memphis, That the mayor be, and he is hereby, authorized to advance from the city treasury a sum sufficient to supply whatever deficiency there may be in said revenue, and to hold the c'upons of the bonds for the amount so advanced as a debt against the said railroad company, to be paid out of the navy-yard revenue so soon as a sufficient amount has been received from that source to do so.

Resolved, That the city register be instructed to open and keep a separate account of the revenue arising from the leases and taxes of the navy-yard property; the amount thereof applied to the payment of interest and principal of said bonds; the amount which may at any time be advanced or loaned from the city treasury in anticipation of the receipt of said revenue; promptly the coupons of said bonds as they may become due; and also, the amount of any revenue which may at any time be applied or appropriated to any other purpose than the payment of the interest and principal of said bonds.

Book 9, page 126.

190 CITY HALL, *Memphis*, *December 23rd*, 1858.

At a meeting of the board of mayor and aldermen of the city of Memphis on Thursday evening, Dec'r 23rd, 1858—

Present, Hon'l R. D. Baugh, mayor, Messrs. Chairman Hughes, Drew, Morgan, Street, Kortrecht, Forrest, Finnie, Hamilton, Douglass, Font, Townsend, Copeland, Robinson, Neal, and Saffarans, aldermen.

Thereupon it was moved and seconded that the communication of Col. G. B. Lock, asking the board to appoint a committee to settle with him generally for all services as auctioneer in the sale and disposal of the Memphis navy-yard grounds and appurtenances, &c., be received.

Whereupon it was moved and seconded that the matter be referred to the navy-yard committee.

Thereupon Alderman Copeland, being seconded, moved that the whole matter be laid upon the table. wanted Col. Lock to make out his account against the city so as the council may have something in a tangible form to act upon; which motion carried.

Book 9, page 163.

CITY HALL, *Memphis*, *January 21st*, 1859.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis on Friday, January 21st, 1859—

Present, Mayor Baugh, Messrs. Chairman Hughes, Drew, Morgan,

Street, Forest, Elder, Finnie, Font, Townsend, Copeland, Robinson, Jefferson, and Neal, aldermen.

191 Thereupon the following resolution was offered and adopted: *Resolved by the board of mayor and aldermen of the city of Memphis*, That the mayor, with sanction of the navy-yard committee, be authorized to sell the navy-yard boilers & engines, and report to the board.

Book 9, page 181.

CITY HALL, *Memphis, February 1st*, 1859.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, February 1st, 1859—

Present, Mayor Baugh, Messrs. Drew, Morgan, Street, Kortrecht, Finnie, Douglass, Font, Robinson, Jefferson, Neal, aldermen.

Whereupon the petition of W. S. Wills, esq'r., asking the board to grant to him the lease of upon certain ground north of the navy yard, upon which to erect a mill, &c.; which was rec'd, read, and, on motion, referred to the navy-yard committee for investigation and report.

Book 9, page 181.

CITY HALL, *Memphis, Feb'y 15th*, 1859.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, February 15th, 1859—

Present, Mayor Baugh, Messrs. Drew, Morgan, Street, Kortrecht, Forrest, Finnie, Hamilton, Douglass, Font, Neal, and Jefferson, aldermen—

In the absence of the chairman, Alderman Douglass took his seat, and called the board to order, &c.

192 *Resolved by the board of mayor and aldermen*, That the mayor be authorized to sell the engines and boiler in the navy yard at his discretion.

Book 9, page 187.

CITY HALL, *Memphis, March 15th*, 1859.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, March 15th, 1859—

Present, Mayor Baugh, Messrs. Chairman Douglass, Hughes, Drew, Morgan, Street, Kortrecht, Forrest, Elder, Finnie, Hamilton, Font, Robinson, Copeland, and Dupree, aldermen.

Whereupon a communication from James A. Grant, esq'r., proposing to lease a portion of the navy-yard buildings—the house now occupied by the city schools—for the purpose of erecting and manufacturing oil from cotton seed, was read, rec'd, and, on motion, referred to the committee on navy yard.

Book 9, page 214.

CITY HALL, *Memphis, May 10th*, 1859.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, May 10th, 1859—

Present, Mayor Baugh, Messrs. Chairman Douglass, Hughes, Drew, Morgan, Street, Forrest, Elder, Finnie, Hamilton, Robinson, Townsend, Copeland, Neal, and Dupree, aldermen.

Whereupon the navy-yard committee, to whom was referred a resolution in relation to the assessment of city taxes in future on two
193 lots in the navy yard, leased by A. Street, esq'r, reported favorably to the passage of the resolution.

When Alderman Copeland, being seconded, offered an amendment that the city proceed at once to fill all the lots belonging to individuals subject to inundation; which was, on motion, laid on the table.

Alderman Finnie, being seconded, offered to amend the original resolution to the effect that all parties who fill up the overflown lots in the navy yard shall have the full benefit in feet, as far as the ground is concerned, but the buildings; which was lost by the following vote, to wit:

Yeas, *Messrs.* Finnie. Nays, Messrs. Hughes, Drew, Morgan, Forrest, Elder, Hamilton, Townsend, Robinson, Copeland, Dupree, & Douglass.

Thereupon the original resolution, as reported through the navy-yard committee, was taken up and adopted.

Book 9, page 167.

CITY HALL, *Memphis, May 10th*, 1859.

Resolved by the board of mayor and aldermen of the city of Memphis, That the two lots leased by A. Street & Co. in the navy yard that overflow be exempt from any increase of city tax over the present rate of assessment on account of any improvement that said A. Street & Co. may hereafter make on said lots by filling the same, provided the same exemption is granted to all other owners of leases of lots in said
194 navy yard that are alike situated.

Report.

We recommend the passage of the resolution.

(Signed) A. STREET.
T. HAMILTON, &
JA'S ELDER.

Book 9, page 268.

Alderman Street, being seconded, offered a resolution that A. Street & Co., under their lease of navy-yard property, be allowed to use water from the public cisterns in the navy yard, and that the city keep the pipes in order so as to convey the water to said cisterns; which was, on motion, referred to the improvement committee.

Book 9, page 270.

CITY HALL, *Memphis, May 17th*, 1859.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, May 17th, 1859—

Present, Mayor Baugh, Messrs. Chairman Douglass, Hughes, Drew, Morgan, Street, Finnie, Kortrecht, Elder, Hamilton, Townsend, Martin, Robinson, Copeland, Neal, & Dupree—

There being a quorum present, the chairman took his seat, and called the board to order.

Resolved by the board of mayor and aldermen, That A. Street and all others, lessees of the Memphis navy-yard property, be allowed, under their respective *firm* the city of Memphis, the use of the water from the public cistern in said navy-yard grounds, and that the city keep the pipes in order necessary to convey the water to said cisterns.

Made the following report, to wit:

195 "Your committee report adversely."

(Signed) COPELAND.

Which report was not concurred in by the council.

Whereupon it was moved and seconded that the resolution be adopted; which motion carried, and the resolution was adopted accordingly.

Book 9, page 274.

CITY HALL, *Memphis, June the* 10*th*, 1859.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis on Friday, June 10th, 1859—

Present, Mayor Baugh, Messrs. Chairman Douglass, Drew, Morgan, Street, Font, Kortrecht, Elder, Finnie, Hamilton, Townsend, Martin, Robinson, Copeland, Neal, and Dupree, aldermen—

The chairman took his seat and called the board to order, &c.

When it was moved and seconded that the unfinished business of the late meeting be taken up and progressed with.

The petition A. C. Kerwen and Fred. Lambert, lessees and occupants of buildings in the navy yard, asking the city to erect fire-walls in the rope-walk, &c.

Book 9, page 292.

Alderman Street, being seconded, offered the following resolution, which was adopted, to wit:

Resolved by the board of mayor and aldermen, That the public cistern in the navy yard be repaired and filled with water from the river, under the direction of the mayor.

When Alderman Drew offered an amendment that each cistern
196 be protected by a suitable enclosure or fence around the same.

Which amendment was, on motion, referred to the improvement committee.

Book 9, page 295.

CITY HALL, *Memphis, June* 21*st*, 1855.

At a meeting of the board of mayor and aldermen of the city of Memphis on Tuesday, June 21st, 1859—

Present, Mayor Baugh Messrs. Chairman Douglass, Hughes, Drew, Morgan, Street, Forrest, Kortrecht, Elder, Finnie, Hamilton, Townsend, Robinson, & Neal, aldermen—

There being a quorum present, the chairman took his seat and called the board to order.

Thereupon the committee improvement, to whom was referred the petition of sundry lessees from the city of the navy yard grounds and improvements, asking that the city erect fire-walls between them and that portion of the rope-walk buildings occupied by A. Street & Co., reported favorably upon the prayer of the petition.

When it was moved and seconded that the matter be recommitted for further investigation; which motion carried.

Book 9, page 300.

Whereupon the petition of A. J. Walt, esq'r., touching the building his house leased from the city in the navy yard lately destroyed by fire, asking the council to release him from the payment of annual rent thereon for two years, was read, rec'd, and, on motion, was referred
197 to the finance *for* committee for investigation and report.

Book 9, page 302.

CITY HALL, *Memphis, June* 24*th*, 1859.

At an adjourned meeting of the board of the mayor and aldermen of the city of Memphis, on Friday, June the 24th, 1859—

Present, Mayor Baugh, Messrs. Chairman Douglass, Drew, Morgan, Street, Forrest, Kortrecht, Finnie, Elder, Hamilton, Townsend, Robinson, Copeland, and Neal, aldermen—

There being a quorum present, the chairman took his seat and called the council to order.

When it was moved and seconded that the business unfinished of the late matters be taken up and with; which was agreed to.

The same committee, to whom the following resolution was referred, to wit:

"*Resolved by the board of mayor and aldermen*, That Fulton street in the navy yard be filled so as to make it passable for wagons, drays, &c."

(Signed) STREET.

Book 9, page 304.

Alderman Elder, one the committee, offered the following preamble and resolutions, which was, on motion, adopted, to wit:

Whereas the house in the navy yard, leased by W. C. Bradford, has been more or less mutilated and impaired by said lessee, by tearing out certain division walls, and appropriating the materials without the said navy yard; therefore,

Resolved, That the navy-yard committee, together with the city
198 attorney, be requested to look into the matter, and require the same to be restored or properly accounted for.

Resolved, That the city engineer be requested to furnish a complete plat and map of the navy-yard grounds, with each and every lessee, together with the price paid for the same.

Resolved, That the mayor & city register be requested to furnish the board with a complete statement of the amount of, and due by the lessee of, the navy yard, how much has been paid out, and by whom paid, & amounts due and uncollected, and by whom said deficit is owing.

Book 9, page 305.

Thereupon the petition of sundry citizens residing in the navy yard, and lessees from the city of the navy-yard property, against the use of any portion of said property to caliboose or work-house purposes, was read, rec'd, and, on motion, referred to committee on court-house and jail.

Book 9, page 308.

CITY HALL, *Memphis, June 20th*, 1859.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis on Wednesday, July 20th, 1859—

Present, Mayor Baugh, Chairman Kortrecht, Drew, Street, Lofland, Milton, Elder, Hamilton, Farris, Barnett, Griffing, and Perkins, aldermen.

Whereupon Alderman Elder, a member of the finance commit-
199 tee, to whom was referred the petition of A. J. Walt, esq'r, a lessee of a portion of the city's navy-yard property, reported by resolution as follows, to wit:

Resolved by the board of mayor and aldermen of the city of Memphis, That house and grounds leased by A. J. Walt in the navy and occupied by him as a feed store, burned some time in June last, be suspended for 24 months from the date of burning, or until such time as said Walt shall rebuild the same, not exceeding the 24 months as mentioned above; provided said A. J. Walt shall, when said house or houses shall be rebuilt *shall* insure and keep insured the same for the benefit of the city,

say such building or buildings at a fair valuation; and provided further, the said Walt will agree that a clause be attached to his lease conditioned that he will pay all assessments for State, county, and corporation on said property, or said lease will be forfeited.

(Signed) ELDER.

Which resolution or report was, on motion, concurred in and adopted.

The yeas and nays being called for, stood as follows: Yeas, Messrs. Drew, Elder, Hamilton, Barrett, Griffing, Perkins, Kortrecht—7. Nays, Messrs. Lofland, Milton & and Farris—3.

Book 9, page 340.

CITY HALL, *Memphis, August 4th*, 1859.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Wednesday, August the 4th, 1859—

200 Present, Mayor Baugh, Messrs. Chairman Kortrecht, Drew, Tigh, Street, Lofland, Forrest, Elder, Patton, Douglass, Milton, Barrett, Farris, Griffing, and Perkins, aldermen—

There being a quorum present, the chairman took his seat and called the council to order.

Whereupon Alderman Elder, being seconded, offered the following resolution which, on motion, was adopted, to wit:

Resolved, That the mayor be authorized to procure copies of all the *losses* made to the property in the navy yard, in order to report to the board, the owner, or lessee, and prices per annum agreed for said navy-yard property, as requested by a resolution of the board.

(Signed) ELDER.

Book 9, page 354.

By Alderman DOUGLASS:

Resolved by the board of mayor and aldermen, That the city attorney be, and is hereby, requested to investigate, and report to this board, upon the power and authority of the State of Tennessee and county of Shelby, to tax the navy-yard property.

Book 9, page 356.

CITY HALL, *Memphis, September 20th*, 1859.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, held on Tuesday, Sept. 20th, 1859—

Present, R. D. Baugh, Chairman Kortrecht, Aldermen Tigh, Drew, Lofland, Forrest, Hamilton, Douglass, Jones, Townsend, Farris,

201 Barrett, Griffing, Perkins, Street, and Elder.

The board was called to order, &c.

Tax on navy yard.

The city attorney, G. P. Font, offered a verbal report relative to the collection, &c., of the city and State and county taxes on the navy yard, a matter which had been referred for his opinion at a previous meeting.

The report of the attorney was in effect that the city bring a suit—a simple action of debt—against the lessees of said property, and that the question be carried to the highest courts of the country for their adjudication.

In connection with the subject, Chairman Kortrecht offered the following resolution, which was adopted by the board—

Resolved by this board, That it is to the interest of the city to pay the

State and county tax on the navy yard, if the lessee fail to do it; and if the lessee fail to repay the same to the city, the only safe course for the corporation to pursue is to look to the tenants or *or* lessees, by common law action on the conditions of their general leases, to recover the same, as well as all taxes assessed the city which they refuse to pay; and that the mayor be accordingly instructed and authorized to pay or advance whensoever necessary, the tenants to be sued therefor.

Book 9, pages 405 & 406.

202 CITY HALL, *Memphis, Sept. 21st*, 1859.

At an adjourned meeting of the board of mayor and aldermen held on Wednesday evening, at o'clock—

Present, R. D. Baugh, mayor, Chairman Kortrecht, Aldermen Drew, Tigh, Street, Lofland, Forrest, Hamilton, Douglass, Jones, Townsend, Farris, Barnett, Perkins, and Griffing—.

The board was called to order, &c.

Navy-yard committee.

Alderman Lofland reported verbally that he had heard that it was in contemplation upon the part of some of the lessees to sub-lease portions of that property, and that he should protest against the same, unless the sub-leasing was done with the sanction of the board of aldermen.

In connection with the subject Alderman Douglass offered the following resolution, which was adopted:

Resolved by the board of mayor and aldermen of the city of Memphis, That the board ratify the transfer made by the Memphis and Little Rock Railroad Company of their lease of lots in the navy yard to the Memphis & Ohio R. R. Company, and that the M. & L. R. R. Company be released when the Memphis and Ohio R. R. Co. is substituted in said lease.

Book 9, page 412.

CITY HALL, *Memphis, January 10th*, 1860.

203 At an adjourned meeting of the board of mayor and aldermen held Tuesday evening, January 10th, 1860—

Present, R. D. Baugh, mayor, Aldermen Drew, Tigh, Lofland, Nelson, Elder, Hamilton, Townsend, Farris, Griffing, and Perkins—

In the absence of Alderman Kortrecht, Alderman Elder was called to the chair, &c.

Navy-yard committee.

Alderman Lofland, chairman, presented a lengthy report respecting the condition of the navy yard leases, &c.; the reading of which was deferred to a future meeting of the board.

The following resolution was, however, offered and adopted:

Resolved, &c., That the mayor is hereby directed to commence suit immediately on all the notes and other claims remaining unpaid that were executed for navy-yard lots, and that he also take immediate steps to re-enter and take possession of all the lots in the navy yard that have been forfeited by the reason of the non-compliance of the terms of the lease.

Book 9, page 538.

CITY HALL, *Memphis, February 7th*, 1860.

At a regular meeting of the board of mayor and aldermen, held on Tuesday, February 7th, 1860—

Present, R. D. Baugh, mayor, Aldermen Street, Tigh, Drew, Lofland, Nelson, Hamilton, Townsend, Farris, Douglass, Barnett, Griffing, and Perkins—

The chairman called the board to order, &c.

Navy-yard committee.

The following report was presented by Alderman Lofland and adopted by the board:

204 Report in favor of requiring the city attorney to make quarterly reports to this board of the condition of the navy-yard property as well as the debts due the city from that source, and with other information as may from time to time be required of him in addition of what is now expected of him as city attorney, and in consideration of the additional labor he shall be allowed the sum of six hundred dollars ($600) per year.

The committee rendered a report upon the petition of Grant & Christian.

The only action, however, which was taken by the board, was the granting the prayer of the petitioners so far as the erection of a shed to extend from the vertical wall to the hemp house, or the house occupied by the said Grant & Christian.

Book 9, page 568.

CITY HALL, *Memphis, February 18th*, 1860.

At an adjourned meeting of the board of mayor and aldermen, on Tuesday, February 18th, 1860—

Present, R. D. Baugh, mayor, Aldermen Tigh, Drew, Lofland, Street, Forrest, Elder, Nelson, Douglass, Hamilton, Barnett, Farris, Griffing, and Perkins.

Navy-yard committee.

The navy-yard committee made the following report:

Your committee would further report in favor of authorizing the mayor and city attorney to compromise with all those parties who 205 are disposed to give up their leases, and to report to the board for further action.

We also recommend that that piece of property lying immediately south of the mouth of Bayou Gayoso, between Chickasaw street and Wolf River, and not of the navy yard, being about twenty acres, be subdivided into lots, according to the plan of the city survey, and, when so divided, leased as public ground has been leased heretofore.

(Signed) LOFLAND, *Chairman.*

The first portion of the report was referred to the mayor and city attorney, with authority to compromise with lessees. The latter portion was referred to committee.

Book , page 570.

CITY HALL, *Memphis, March 20th*, 1860.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, held on Tuesday night, March 20th, 1860—

Present, R. D. Baugh, mayor, Ald. Drew, Tigh, Street, Lofland, Elder, Nelson, Hamilton, Douglass, Townsend, Jones, Barnett, Farris, Griffing, & Perkins—

The chairman took his seat and called the board to order, &c.

Navy-yard committee.

Chairman Lofland offered the following resolution, as a report of the committee, and the same was adopted:

Resolved, That a special committee of three be appointed to fix the value per foot of that portion of the ground immediately west of
206 the Brok Mills, above the navy yard, between Auction and Chickasaw streets, and lease the same for ten, fifteen, or twenty years, provided a suitable offer is made for the same.

The following was offered by Alderman Lofland, and adopted by the board:

Resolved, That J. B. Parks be, and is hereby, released from his lease of lots No. 28 and 30 in the navy yard, and that his notes given for the same be cancelled upon executing a proper relinquishment to the city of all of his rights under said lease.

Book 9, page 610 & 611.

A communication was received from the city marshall in relation to the navy yard cistern, which was referred to the navy-yard committee.

Book 9, page 613.

CITY HALL, *Memphis, April 5th*, 1860.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on , there were present, R. D. Baugh, mayor, Aldermen Drew, Tigh, Street, Lofland, Elder, Hamilton, Townsend, Perkins, Douglass, and Amis.

The board was called to order, &c.

Navy-yard committee.

Chairman Lofland, on the propqsition of Grant and Christian, seconded the following report, which was adopted by the board:

Your committee, to whom was referred the petition of Messrs. Grant and Christian to erect a house on the walls of the cistern near the
207 oil works, recommended that they be permitted to build the house according to the terms of their proposition; provided, however, that they shall first submit a plan of the same for the inspection and approval of improvement committee and city engineer.

A communication from the city marshall respecting the condition of the navy-yard cistern:

The report of the committee was that the cistern was in a bad condition, and recommended that the mayor have the same repaired. The committee were of the opinion that the water was not injured by Grant Oil Factory, as has been charged by the marshall.

Report adopted.

Upon a resolution authorizing James A. Grant to transfer his navy-yard lease to the "Grant White Lead and Oil Works Company," the report of the committee was in favor of the passage of the resolution, and direct the city attorney to draw up a proper transfer of the lease.

Report adopted.

Book 9, page .

Resolution.

Resolved, &c., That the old cistern near the rope-walk be filled up by the street forces.

Referred to improvement committee.

By Ald. Perkins.

Book 9, page .

208 CITY HALL, *Memphis, May 3rd*, 1860.

At an adjourned meeting of the board of mayor and aldermen, on Tuesday, May 3rd, 1860—

Present, R. D. Baugh, mayor, Aldermen Drew, Street, Lofland, Forrest, Elder, Nooe, Douglass, Townsend, Farris, Barnett, Hamilton, Perkins, and Kortrecht—

The chairman called the board to order, &c.

Navy-yard property.

Upon motion of Ald. Perkins the mayor was authorized to pay the State and county tax on the navy-yard property, and the same to be charged up to the various lessees.

Book 9, page .

CITY HALL, *Memphis, July 10th*, 1860.

At an adjourned meeting of the board of mayor and aldermen, held Tuesday evening, July 10th, 1860, at 4 o'clock—

Present, R. D. Baugh, mayor, Chairman Martin, Aldermen Hughes, Malone, Morgan, Joiner, Forrest, Norvell, Crews, Kirby, Mallory, Frasier, Robertson, aldermen—

The chairman took his seat and called the board to order, &c.

Resolution.

By Alderman Morgan:

Resolved, &c., That the mayor be instructed to have prepared, and laid before the board at its next regular meeting, a statement showing the number and names of the lessees of the navy-yard grounds and tenements, how much each one is bound for annually, and the amounts
209 now due and unpaid, and the names of such tenants as are in arrears.

Adopted.

Record book No. 10, page 24 & 25.

CITY HALL, *Memphis, July 24th*, 1860.

At an adjourned meeting of the board of mayor and aldermen, held Tuesday evening, July 24th, at 7 o'clock—

Present, R. D. Baugh, mayor, Chairman Martin, Ald. Hughes, O'Mahoney, Morgan, Joiner, Forrest, Worsham, Kirby, Mallory, Frasier, Robinson, Feger, Valentine, and Anderson—

The chairman took his seat and called the board to order, &c.

Navy yard.

Alderman Morgan presented a list of the navy-yard leases, the amount due from each, &c., and offered the following resolution, which was adopted by the board:

Resolution.

Resolved, &c., That suit be instituted against all lessees of the navy-yard grounds and houses, for rents due from them to the city, if such rents are not paid before the 7th day of September; and also that the finance committee be authorized to employ council to assist the city attorney in prosecuting suits against the above-named tenants, if the navy-yard grounds and tenements for taxes due from them to the city for the entire time since they leased said grounds and tenements; their compensation to be fixed by this board.

Record book 10, page 53.

210 CITY HALL, *Memphis, August 7th*, 1860.

At a regular meeting of the board of mayor and aldermen, held on Tuesday evening, August 7th, at 3 o'clock—

Present, R. D. Baugh, mayor, Chairman Martin, Aldermen Hughes, O'Mahoney, Joiner, Forrest, Crews, Kirby, Frasier, Robinson, Feger, Valentine, and Anderson—

The chairman took his seat and called the board to order, &c.

Resolution.

By Alderman Hughes:

Resolved, That it is, and shall be, unlawful to store lumber in quantity in any part of the navy-yard grounds, and that the storing of lumber there shall be a misdemeanor.

Record book 10, page 86.

CITY HALL, *Memphis, Oct'r 2nd*, 1860.

At a regular meeting of the board of mayor and aldermen, held Tuesday evening, Oct'r 2nd, at 3 o'clock—

Present, John B. Robinson, mayor pro tem., Aldermen Hughes, O'Mahoney, Joiner, Morgan, Worsham, Crews, Merrill, Kirby, and Anderson—

Alderman Hughes took the chair and called the board to order, &c.

Resolution.

The following resolution, offered by Alderman Morgan, was adopted by the board:

Resolved, &c., That the city attorney be instructed to bring suit on all claims for rents and taxes due from the tenants of the navy-yard grounds & houses.

Record book 10, page 167.

211 CITY HALL, *Memphis, Oct'r 16th*, 1860.

At a regular meeting of the board of mayor & aldermen, held on this evening, at 7 o'clock—

Present, R. D. Baugh, mayor, Aldermen Morgan, Mallory, Frazier, Joiner, Worsham, Crews, Lilly, Anderson, & Vallentine—

A quorum being announced, Alderman Mallory, upon motion, took the chair, and called the board to order, &c.

Resolution.

By Alderman Morgan:

Resolved, That a committee of three members of this board be ap-

pointed by the chair, who shall inquire into the propriety and practibility of selling the navy-yard, grounds, and tenements, to confer with lessees of said grounds, and others who may wish to purchase them, ascertain the best terms on which they can be sold, and report to this board.

Record book 10, page 178.

CITY HALL, *Memphis, March 5th*, 1861.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, held on Tuesday evening, March 5th, 1861, at 7 o'clock—

Present, R. D. Baugh, mayor, Chairman Martin, Alderman Morgan, Hughes, O'Mahoney, Joiner, Pickett, Lilly, Crews, Merrill, Kirby, Frasier, Robinson, Fager, and Vallentine—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Upon the message of the mayor, in relation to the navy-yard
212 lessees, and in relation to the coupons of the Memphis and Little Rock Railroad bonds, the committee submitted the following report:

Message.

To the board of aldermen.

GENTLEMEN: The lessees of the navy-yard property have failed to pay the semi-annual payments on their leases, with very few exceptions, which was the source from which the city expected receive revenue to pay the coupon interest on the bonds issued by the Memphis and Little Rock Railroad Company, for which the navy yard was mortgaged to secure the payment. Heretofore the city has paid the coupons of said bonds as they fell due, and the amount paid up to this date is sixty-one thousand dollars. It now remains for your honorable body to say whether the amounts now due shall be paid out of any funds other than the funds collected from the lessees of the navy yard, and also whether you will elect to take stock in the road to the amount already paid. This, I believe, is the arrangement between the city and the road.

The stockholders of the road will meet to-morrow to elect directors for the ensuing year, and I would respectfully ask your honorable body to instruct me whether as to the amount paid by the city shall be taken in stock or not.

I would suggest that the coupons of said road stand on the
213 same footing as the coupons of other bonds, for the payment of which a tax has been assessed.

The city can be reimbursed when the lessees are forced to pay the amount due the city on leases on navy-yard property. I would respectfully request your hon'l body to take this subject under consideration, and determine as to what course shall be taken in relation to the coupons now due.

A great many persons hold coupons of said road, and are anxious to know what course the city will take in relation to them; all of which is respectfully submitted.

R. D. BAUGH, *Mayor*.

Record book 10, page 338.

Report upon the message of the mayor in relation to the navy-yard lessees, and in relation to the coupons of the Memphis and Little Rock Railroad bonds.

The committee submitted the following propositions:

1st. That suits be immediately brought against the defaulting tenants of the navy-yard property for rents past due.

2nd. That the coupons of interest past due on the Memphis & Little Rock Railroad bonds be received by the tax collector in payment of city taxes.

3d. The first proposition was referred to the navy-yard committee to report back to the board as to what leases should be forfeited, and what not.

The second and third propositions were referred to a special committee, composed of Aldermen Martin, Morgan, Vallentine, and
214 Frasier, with the city attorney, for investigation and report.

Upon the disposition of the third proposition, Ald. Joiner in the chair, while Alderman Robinson was speaking, Ald. Merrill made the motion to refer, and it was ruled out order, when Ald. M. appealed from the decision of the chair, and the question was decided in the negative, the decision of the chair being overruled.

Record book 10, page 362.

CITY HALL, *Memphis, January 10th*, 1862.

At an adjourned meeting of the board of mayor and aldermen, held January 10th, 1862—

Present, Hon'l John Park, mayor, Aldermen Drew, Tighe, Morgan, Cochran, Amis, Ayers, Kirby, Greenlaw, Townsend, Farmer, Robinson, Hulburt, Patrick, and Kortrecht—

A quorum having been announced, Alderman Ayers in the chair, the board was called to order, &c.

By Aldermen Farmer:

Whereas heretofore, to wit, on the 1st January, 1858, the mayor & aldermen leased to one W'm Miller a certain lot in the navy yard, No. 87, more particularly described in said lease, which is of record in Shelby County register's office, book 30, part 1st, page 54, &c., to which reference is here made; and whereas the said Miller has sub-leased, sold, and transferred his said lease to Watt C. Bradford, who, on the 13th of Dec'r, 1861, sold and transferred said lease to the Planters' Oil Works; and whereas terms of the lease the same would be forfeited
215 without the consent of the board of mayor and aldermen, and the said board being willing that the said transfer should stand; therefore,

Be it resolved, That the said several transfers be, and the same are hereby, assented to and confirmed, and the lease held declared to be as effective in the said Planters' Oil Works as though the same were made to them directly by this board, and confirmed, when all arrearages are paid.

Amendment.

Before the board confirmed the transfer of the lease proposed, the navy-yard committee, with the city attorney and city engineer, be requested to investigate the matter, whether the proposition of the Plan-

ters' Oil Works have in any way obstructed any streets by the erection of buildings in connection with said works, and report to this board.

Referred to the finance committee.

Record book 10, page 660.

CITY HALL, *Memphis, January 21st*, 1862.

At a regular meeting of the board of mayor and aldermen, January 21st, 1862—

Present, Hon'l John Park, mayor, Chairman Murrell, Aldermen Drew, Tighe, Morgan, Cochran, Amis, Ayers, Kirby, Townsend, Farmer, Robinson, Patrick, and Hulburt—

A quorum being announced, the chairman took his seat, and called the board to order, &c.

Navy-yard committee.

Upon a resolution instructing the mayor to take charge of the iron railing taken down in the navy yard, and to have a portion of the
216 same put up around the circular pavement leading to the commandant's house, the report of the committee was favorable, and was approved by the board.

Record book 10, page 668.

CITY HALL, *February 14th*, 1862.

At a regular meeting of the board of mayor and aldermen, held on Feb'y 14th, 1862—

Present, Hon'l John Park, mayor, Chairman Merrell, Aldermen Drew, Tighe, Morgan, Cochoran, Amis, Ayers, Kirby, Kortrecht, Farmer, Robinson, Patrick, Townsend, Valentine, and Hulburt.

Reports were received from the city comptroller in relation to the financial condition of the city, and relation to the condition of the navy-yard leases and rents.

Ordered published.

In connection with the comptroller's report in relation to the navy yard, Alderman Ayers offered the following, and the same was adopted by the board.

Resolved, That so much of the comptroller's report, as refers to the amounts now due and unpaid from lessees of the navy yard, be referred to the city attorney, who is instructed to proceed to collect the amounts that are unpaid for rents from the several delinquents, by suit or otherwise, as he may find it necessary.

Record book 10, page 674.

CITY HALL, *Memphis, June 3d*, 1862.

217 At a regular meeting of the board of mayor and aldermen, held June 3d, 1862—

Present, Hon'l John Park, mayor, Chairman Merrill, Aldermen Tighe, Drew, Morgan, Cochoran, Amis, Ayers, Kortrecht, Kirby, Greenlaw, Farmer, Robinson, Patrick, and Vallentine—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolution.

Resolved, That the myor be, and is hereby, instructed to confirm the

transfer of lots No. 46, 47, & 48, in the Memphis navy yard, from the present lessee to C. Richmond and B. Norris, upon the payment of full arrears due the city thereon; and also, the west half of lot No. 25 and lot No. 26, in the navy yard, now held by Anthony Street, and which he has leased to Peter Luvlis on same conditions.

Adopted.

Record book 10, page 780.

CITY HALL, *Memphis, June 17th*, 1862.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, held June 17th, 1862—

Present, Hon'l John Park, mayor, Chairman Merrill, Ald. Tighe, Drew, Cochran, Morgan, Amis, Ayers, Greenlaw, Townsend Robinson, Kortrecht, & Vallentine—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolution.

By Aldermen Drew:

Resolved, That the mayor confirm the transfer of lease of lot
218 No. 58, from Wat C. Bradford to Fenton & Co., when all dues thereon to the city on rents and taxes shall have been paid up to date of said confirmation, and that said transfer be made to said parties on the same terms and conditions as the original leases are under to the city.

Adopted.

By Alderman Tighe:

Resolved, That be, and is hereby, instructed to transfer the east half of lot 25, in the navy yard, at present occupied by Anthony Street & Co. to Peter Shea, provided that all dues for rent, State, county, and corporation taxes be paid, and that said Shea take said half lot on same terms and conditions as the original lessees.

Adopted.

Record book 10, page 755, 756.

CITY HALL, *Memphis, August 4th*, 1863.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, held August the 4th, 1863—

Present, Hon'l John Park, mayor, Chairman Hulburt, Aldermen Donovan, Glancey, Morgan, Johnson, Wunderman, Neal, Holland, Jones, Evans, Kelly, McEncran, Harver, & Vallentine—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolution.

By Alderman Donovan:

Resolved, &c., That the city comptroller be requested to prepare and furnish a statement for the information of this board of the income
219 derived by the city from the navy-yard property, the names of the persons leasing or renting said property, arrears of rent due, and by whom, and all other necessary information he may possess relative to the same.

Adopted.

Record book 11, page 221.

CITY HALL, *Memphis, August 18th*, 1863.

At a regular meeting of the board of mayor and aldermen, held August 18th, 1863—

Present, Hon'l John Park, mayor, Chairman Hilzfield, Aldermen Glancy, Donavan, Morgan, Johnson, Amis, Wunderman, Stillman, Harver, Jones, McEncran, Neal, Holland, Evans, Kelley, & Vallentine—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Navy yard.

A report from the city comptroller, in relation to the Memphis navy-yard leases, was read & received.

Record book 11, page 224.

Resolution.

By Alderman Donovan:

Resolved, That a special committee *then* be appointed by the chairman to investigate the title and claims of parties leasing, renting, or otherwise occupying the navy-yard property; said committee to be clothed with power to examine all records or other papers appertaining thereto, and caused to be collected, by legal means, all arrears of rent now due the city of Memphis from said property. All monies so
220 received to be paid over to the city comptroller. And that said committee report to the board of mayor and aldermen at their regular meetings, and that the report of the city comptroller be referred to the said special committee.

Adopted.

Record book 11, page 229.

CITY HALL, *Memphis, July 11th*, 1865.

At a called meeting of the board of mayor and aldermen of the city of Memphis, Tuesday, July 11th, 1865—

Present, Hon'l John Park, mayor, Chairman Hill, Glancy, O'Mahoney, Morgan, Rainey, Wonderman, Leonard, Burke, Hitzfield, Becktell, Kelly, Green, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolutions.

By Alderman Morgan:

Resolved, That John F. Sale be, and hereby is, authorized to transfer to Captain F. W. Fox, his lease on lots 17 and 18, in the navy yard, executed to him, the said Sale, by Thomas B. Carroll, mayor, on the 31st day of January, 1857; said Fox assuming all rents and taxes, now due and unpaid to the city of Memphis, on said lots No. 17 & 18, by said Sale, by virtue of the conditions and obligations of the lease above-mentioned.

Adopted.

Record book 11, page 685.

221 CITY HALL, *Memphis, Oct. 17th*, 1865.

At a regular meeting of the mayor and aldermen of the city of Memphis, on Tuesday evening, October 17th, 1865—

Present, Hon'l John Park, mayor, Messrs. Hill, Glancy, O'Mahoney, Morgan, Johnson, Wonderman, Leonard, Burdett, Hitzfield, Burk, Becktell, Harvey, Toof, Kelly, Grace, Green, aldermen—

A quorum being announced, the chairman, Hill, took his seat and called the board to order, &c.

Resolutions.

By Alderman Grace:

Resolved, That five of the board of aldermen be appointed as a committee of conference with the proper authorities, to get possession of the navy yard for the city of Memphis, and that Aldermen Grace, Kelly, Harvey, Burke, and Leonard, be appointed the committee.

Adopted.

Record book 11, page 763.

CITY HALL, *Memphis, January 2nd*, 1866.

At a meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, January 2nd, 1866—

Present, Hon'l John Park, mayor, Messrs. Hill, chairman, Glancy, Johnson, Morgan, Leonard, Wunderman, Burke, Hitzfield, Becktell, Harvey, Toof, Kelly, and Grace, aldermen—

A quorum being announced, Chairman Hill took his seat and called the board to order, &c.

By Alderman Toof:

Resolved, That a committee of five be appointed by the chair-
222 man to examine and report to this board, what steps should be taken, with a view to re-establish a United States naval depot at Memphis.

Adopted.

When the chair appointed Messrs. Toof, Burdett, & Becktell the committee.

Record book 11, page 813.

CITY HALL, *Memphis, Feb'y* 6, '66.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Feb'ry 6th, 1866—

Present, John Park, mayor, Messrs. Chairman Hill, Glancy, Johnson, Morgan, Leonard, Wunderman, Burdett, Burke, Becktell, Harvey, Toof, Kelly, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolutions.

By Alderman Toof:

Resolved, That the city attorney be, and is hereby, empowered to proceed forthwith to enforce the terms of all leases, held by all lessees, of the navy-yard property.

Adopted.

Record book 11, page 832.

By Alderman Morgan:

Resolved, &c., That all leases held by lessees from the city of Memphis

on navy-yard grounds and improvements, held by sub-tenants from the lessees of the city, the previous terms and conditions of which has
223 not been complied with by such lessees or sub-tenants, be, and are hereby, declared forfeited to the city; and the mayor is hereby authorized and instructed to lease out such grounds and improvements, to good and responsible tenants, for the unexpired term of the leases, and such leases hereby declared forfeited.

Adopted.

Record book 11, page 839.

CITY HALL, *Memphis, Mar. 6th*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Mar. 6th, 1866—

Present, Hon'l John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Leonard, Wunderman, Burke, Burdett, Hitzfield, Harvey, Toof, Kelly, & Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Resolutions.

By Alderman Johnson:

Resolved, That action upon the report of the city attorney and finance committee, in relation to the exemption of taxes, be postponed, and that the city tax collector be requested to ascertain how much has been collected and paid to the attorney as taxes upon city property held by the United States Government, and amount of taxes now due upon property so held, and report at the next regular meeting of this board.

Adopted.

Record book 11, page 850.

CITY HALL, *Memphis, March 20th*, 1866.

224 At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, March the 20th, 1866—

Present, John Park, mayor, Messrs. Chairman Hill, Glancy, O'Mahoney, Johnson, Morgan, Leonard, Wunderman, Burdett, Hitzfield, Burke, Harvey, Toof, Kelly, Grace, Green, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Petition and report.

Upon the petition of I. I. Murphy, assignee of Anthony Street, to whom was leased, some years since, navy-yard lot No. 28, petitioner having been deprived of the use of said lot since June, 1862, the same having been seized and used by the United States authorities, who continue to occupy the same, asks to be released from paying rents or lease-money, &c., thereon during the occupancy of said lot No. 28, by the United States authorities. The committee reported as follows, to wit:

Your committee report in favor of granting prayer of petitioner.

Report adopted.

Record book 11, page 855.

Report.

Whereupon the report of finance committee on Alderman Morgan's

resolution, offered Febr'y 6th, 1866, and referred to the finance committee, was taken up & considered.

Resolution.

Resolved, That all property within corporate limits of the city
225 of Memphis, which has been seized by the military authorities of the United States, and on which no rent has been allowed the owners thereof during such occupancy or possession, be, and the same is hereby, exempt from all city tax during said period, or for such time of such occupancy or possession as said owners have been unable to receive from the Government any compensation therefor, but no tax that has been heretofore collected on said property shall be refunded to the owners thereof.

Referred to the finance committee and city attorney.

Report.

The city attorney reported at length and adversely to the collection by the city the city taxes on city property seized and used by the United States during such uses. Which report was fully concurred in by the finance committee.

During the pendency of the question Alderman Hitzfield, being seconded, offered the following as an amendment to Alderman Morgan's original resolution, to wit:

Resolved, Provided that all persons claiming exemption from city taxes, under this resolution, shall give bond and approved security to the city, to be approved by the mayor and comptroller, that in the event the U. S. Government shall at any time hereafter allow the owners of such property compensation therefor, shall then pay the city the taxes hereby exempted.

When Alderman Toof, being seconded, offered the following as
226 an amendment or substitute for the original and amended resolution, to wit:

Resolved, That persons who may claim exemption from taxation on property, on account of the same having been seized by the General Government, be allowed to prefer their claim to this board, properly authenticated, for its action.

Adopted.

Thereupon Hon'l John Park, mayor, presented the following communication, which was read, rec'd, ordered filed.

Communication.

To Hon'l Aldermen City of Memphis.

GENTS: I find the United States authorities at Washington have decided that no rents shall be allowed parties where the Government occupied property of individuals, &c.; therefore the tax thereon should be remitted.

JOHN PARK, *Mayor.*

Record book 11, page 856.

CITY HALL, *Memphis, April 5th*, '66.

At regular meeting of board of mayor and aldermen of the city of Memphis, on Tuesday evening, April 5th, 1866—

Hon'l Hitzfield, mayor, Messrs. O'Mahoney, Johnson, Morgan, Leonard, Burdett, Burke, Becktell, Harvey, Toof, Kelly, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

227 *Petition.*

The petition of F. Battle, lessee of navy-yard lot No. 39; also, the petition of Dr. J. R. Christian, president of the Memphis Oil Works Company, lessees of the navy-yard grounds, &c., upon which the oil works stand; and Droct. J. R. Christian, lessee in his own right; all petitioning to be released from paying the lease-money as well as the city tax on the property leased from the city whilst in the possession and use of the United States Government. Referred to the finance committee.

Record book 11, page 870.

CITY HALL, *Memphis, April 6th*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, April 6th, 1866—

Present, Hon'l John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Leonard, Burke, Wonderman, Becktell, Toof, Harvey, Kelly, Green, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Finance committee.

Upon the petition of F. Battle, representing himself as the lessee from the city of lot No. 39, in the navy-yard grounds, since 1857; that up to the time the United States Government took possession of the same, say, on the 6th of August, 1862, he had regularly paid all claims of the city on account of said lease: therefore, he asks to be released
228 from the lease-money, &c., to the city on said lot No. 39, from the date the possession was, without his consent, wrested from until the same is again restored.

Your committee, after a careful investigation of the facts in the premises, beg leave to report in favor of granting the prayer of the petitioner.

Report adopted.

Record book 11, page 878.

Upon the petition of Doctor James R. Christian, president of the Planters' Oil Works Company, representing that said company are bona-fide the lessees from the city of Memphis, for a term of years, of that portion of the Memphis navy-yard grounds, and improvements thereon, more familiarly known as the Memphis Planters' Oil Works Establishment; that, after the company became the lessees aforesaid, they, at their own expense, made large and costly additions to the buildings already on the grounds, constructed of brick, &c., in the best and most permanent manner for lastingness, which building necessarily attach' to the lease-hold, and will, as a matter of course, be valuable to the city at the termination of the lease of the property, cared for in the interim; that the company placed in said buildings a large amount of costly, highly-wrought machinery, most appropriately adapted to the manufacture of cotton-seed oil, &c., &c., which business they were, prior to the

breaking out of the late rebellion, carrying on efficaciously and advantageously, not only to themselves, but to the whole surrounding
229 country. But on or about the 8th day of June, 1862, the United States military authorities took full and complete possession of said Planters' Oil Works Establishment, grounds, improvements, machinery, &c., &c., and continued to occupy and use the same for United States military purposes until the 9th day of November, 1865, when the possession same was restored to the company in a dilapidated and seriously-damaged condition, at least so far as the machinery thereto attached was concerned, much of which had been removed, and the remainder rendered, by spoiliation, next to useless, costing full as much to repair the damages as to procure new machinery, and all without the allowance of any compensation whatever, either for the use of or damage done to the buildings, machinery, &c., &c. Altho' the company was deprived of the possession of the entire property aforesaid in June, 1862, they paid to the city the rents, &c., thereon to January, 1863. And further, Dr. James R. Christian states that he is himself individually the bona fide lessee from the city of Memphis of the commandant's house and grounds attached, the same being a part of the Memphis navy-yard grounds; that these entire premises were also taken possession of by the United States military authorities on the 1 January, 1863, and they are still occupying the same; that petitioner also paid the city rent on this property up to January 1, 1863.

230 Your committee, after a careful examination of all the matter set forth in the petition as recounted above, beg leave to report as follows, to wit: In favor of granting the prayer of the petitioner, said petitioner giving bond to pay rent in case of receiving rent upon the same from the United States for the time above specified.

Report adopted.

Record book 11, pages 899 & 880.

CITY HALL, *Memphis, May* 4, 1866.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Friday May 4th, 1866—

Present, Hon. John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Burdett, O'Donnell, Becktell, Harvey, Toof, Green, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Communication.

The following communication from S. P. Bankhead, esq'r., assistant city attorney, was read, received, and, on motion, referred to the finance committee:

GENTLEMEN: The supreme court has confirmed the decree made by the chancery court of Memphis in the matter of bonds issued by the Memphis and Little Rock Railroad Company, and the payment of which, both principal and interest, was secured by mortgage on the navy-yard grounds.

231 The city has failed to pay any interest on these bonds since 1862; hence there remains due and unpaid the interest for about five years, amounting to about $105.

These bonds are convertable into stock; hence the mortgage was simply a subscription of $300 M to the capital stock of the Memphis

and Little Rock Railroad, and the unauthorized by express legislation must now be provided for as other like subscriptions.

The decree of the chancellor directs that the navy-yard property shall be placed in the hands of a receiver, who shall collect all the rents, and apply them to the satisfaction of the interests already accrued and accruing on these mortgage bonds. In short, it places this magnificent property in chancery to become a fruitful source of litigation at the expense of the property. This should be avoided, in my judgement, if it is possible. Being held to be a subscription, you are authorized by the charter to levy a special tax for the payment of the accrued interest, and, doubtless, on the payment of this interest to the bond-holders, the chancellor would relieve the receiver from any duties under this decree. If you will exercise this power, and at the same time obtain from the corporation their assent to fund the due debt of the city by an issuance of true bonds to the amount of $250 M due, for the further sum of $500 M, for debts created, by reason of appropriation for the improvement of the principal streets, it may be possible for you to retain
232 this navy-yard property under your control. The emergency demands prompt action or legislation.

The present board received a legacy of indebtedness far beyond the amount usually standing over from one administration to another, and as your power has already been exhausted in providing for the ordinary expenses of the city government, it will be necessary to apply to the corporators for authority to exercise those reserved powers which will alone meet emergencies like the present.

I suggest to you, in view of this mortgage, that this floating debt has assumed such ponderous and cumbrous proportions is not your special fault, for the courts have been suspended until recently, and a large amount of indebtedness tied up in them has now precipitated itself.

I can see no way of meeting these debts except by calling on your constituent' to authorize the issuance of true bonds, and appealing to your home capitalists to aid you in funding the scrip or floating debt.

Record book 11, pages 887 & 888.

CITY HALL, *Memphis, May 8th, 1866.*

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, May 8th, 1866—

Present, Hon. John Park, mayor, Chairman Hill, O'Mahoney,
233 Glancey, Johnson, Morgan, Burdett, Burke, O'Donnell, Becktell, Harvey, Toof, & Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

The first in order for the consideration of the board, for which the adjourned meeting is held, being the financial condition of the city, which was previously referred to the finance committee for investigation and report, which committee reported by resolution only so far as the navy-yard property is implicated, to wit:

Resolution.

Resolved, That his honor the mayor, John Park, and S. P. Bankhead, esq'r., assistant city attorney, be, and are hereby, authorized, with the approval of the board, to negotiate the best terms possible with the holders of the mortgage bonds upon the navy-yard property, with the assurance that the terms of the mortgage shall hereafter be rigidly complied with by the city.

Which was, on motion, adopted.
Record book 11, page 903.

CITY HALL, *Memphis, May 25th*, 1866.

At a special meeting of the board of mayor and aldermen of the city of Memphis, on Friday, May 25th, 1866—

Present, Hon. John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancey, Johnson, Morgan, Leonard, Burdett, O'Donnell, Becktell, Harvey, Toof, Kelley, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

234 Thereupon his honor the mayor, on explanation of the object of calling the council together, submitted the following communication, to wit:

Communication.

To the Hon'l Board of Mayor & Aldermen.

GENT.: The undersigned, who were instructed by a resolution of May 8th to negotiate the best terms possible with the holders of the bonds secured by mortgage upon the navy-yard property, beg leave to report that, owing to the absence from the city of some of the largest bondholders, no negotiations were inaugurated until the 20th inst., when a proposition was received from Messrs. Estes and Jackson, the solicitors for the bondholders, inviting an interview; that this resulted in certain propositions being made by the bondholders, which, with some material modifications, the originals are now submitted for your consideration. They propose—

1st. That hereafter the Memphis and Little Rock Railroad bonds, when due, and the coupons secured by mortgage on the navy yard, shall be *secured* in liquidation of any of the due debts of the city, and in payment of taxes.

2nd. That all the coupons past due and payable on the 30th day of June, 1865, they will receive the bonds of the city proposed to
235 be issued, having 30 years to run and bearing 10 per cent. at par.

3rd. That hereafter the proceeds derived from the navy yard shall not be subject to general appropriations, but, leaving the management and control of the property to the hands of the aldermen, they must appoint some one person to have charge of the same, to collect the rents and apply them as directed by the terms of the mortgage, and failing herein to make provisions for the payment of the future accruing interest, that the property is to again be placed in the hands of a receiver.

4th. Whether the receipts from the leases, when payment is made by them in city scrip, is to be received by the holders of the coupons at par, or its market value, is referred to the decision of the chancellor, Smith, whose decree shall be binding in the premises. All of which is respectfully submitted.

JOHN PARK, *Mayor.*
S. P. BANKHEAD,
Ass't City Att'y.

Record book 11, page 918.

CITY HALL, *Memphis, May 29th*, 1866.

At an adjourned meeting of the mayor and aldermen of the city of Memphis, on Tuesday evening, May 29th, 1866—

Present, Hon. John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancey, Morgan, Leonard, Burdett, O'Donnell, Becktell, Harvey, Toof, Kelley, and Grace, aldermen—

A quorum being announced, the chairman took his seat and
236 called the board to order, &c. When the roll of aldermen was called, and the unfinished business of the last meeting of the council was announced as first in order, to wit:

The report of the Hon'l John Park, mayor, and Assistant City Attorney Smith P. Bankhead, the special committee appointed by the board of mayor and aldermen to confer with, and negotiate terms of settlement between the holders of the endorsement liabilities of the authorities of the city of Memphis, for the Memphis and Little Rock Railroad Company, for the mortgage of the city of the navy-yard property, to secure the ultimate payment, principal and interest, of $300 M of the Memphis and Little Rock Railroad Company's bonds, bearing 7 per cent. per annum interest, &c., which Memphis navy-yard property, by an order of the chancery court of the city of Memphis, has been placed in the hands of a receiver, &c.

Committee's report.

To the Hon'l Board of Aldermen.

GENT.: The undersigned, who were instructed by a resolution of May 8th to negotiate the best terms possible with the holders of the bonds, secured by mortgage upon the navy-yard property, beg leave to report
that, owing to the absence from the city of some of the largest
237 bondholders, no negotiations were inaugurated until the 20th inst., when a proposition was received from Messrs. Estes & Jackson, the solicitors for the bondholders, inviting an interview; that this resulted in a certain proposition being made by the bondholders, which, with some material modification from the original, *are* now submitted for your consideration. They propose—

1st. That hereafter the Memphis and Little Rock Railroad bonds, when due, and the due coupons secured by mortgage on the navy yard, shall be received in liquidation of any of the due debts of the city, and in payment of the taxes.

2nd. That for all the coupons past due, and payable on the 30th day of June, 1866, they will receive the bonds of the city proposed to be issued, having 30 years to run, and bearing 10 per cent. at par.

3rd. That hereafter the proceeds derived from the navy yard shall not be subject to general appropriations, but leaving the management and control of the property to the board of aldermen, they must appoint some one person to have charge of the same, to collect the rents, and apply them as directed by the terms of the mortgage, and failing herein to make provision for the payment of the future accruing interest, that the property is to be again placed in the hands of a receiver.

4th. Whether the receipts from the lessees, when payment is
238 made by them in city scrip, is to be received by the holders of the coupons at par or at its market value, is referred to the decision of Chancellor Smith, whose decree shall be binding in the premises.

JOHN PARK, *Mayor.*
SMITH P. BANKHEAD,
Ass't City Attorney.

Adopted.

Resolution.

By Alderman Becktel:

Resolved, That S. P. Bankhead, esq'r be authorized to make the settlements with the holders of the Memphis Little Rock Railroad bonds upon the terms proposed, and that the future management of the property is confided to him as stipulated in the third proposition of the report, and in accordance with the mortgage.

Resolved, That the compensation of Mr. Bankhead for his services to the city, for the present corporate year, be fixed at $5 M, in lieu of $1,000, and that the same is hereby allowed him. Referred to the finance committee.

Record book 11, pages 919 & 920.

CITY HALL, *Memphis, June 5*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, June 5, 1866—

Present, Hon'l John Park, mayor, Chairman Hill, O'Mahoney,
239 Glancey, Johnson, Morgan, Leonard, Wunderman, Burke, O'Donnell, Becktel, Harvey, Toof, Kelly, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Finance committee.

Resolved, That S. P. Bankhead, esq'r., be authorized to make the settlements with the balance of the Memphis and Little Rock Railroad bonds, to secure the ultimate payment of which, principal and interest, the city some years since executed a mortgage upon the Memphis navy-yard grounds and appurtenances, and upon the terms recently proposed by Messrs. Estes & Jackson, attorneys for the holders of said bonds and that the management of the property is hereby confided to him as specified in the third proposition of the report, and in accordance *and* with the terms of the mortgage. The compensation for said services to be fixed by the board of mayor and aldermen.

The committee report favorably, and the report was adopted.

Resolution.

Resolved, That the compensation of Mr. Bankhead for services to the city the present corporate year, be fixed at $4 M, in lieu of $1,000, upon which the committee reported favorably, but the report not concurred in.

When the following amendment, in the form of a resolution, was approved and adopted.

Resolved, That Bankhead be compensated at the rate of
240 twenty-five hundred dollars per annum for his services rendered to the city of Memphis, for the time he has remained in the same.

Record book 11, page 926.

CITY HALL, *Memphis, July* 17, '66.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, July 17, 1866—

Present, Hon'l John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Leonard, Wunderman, Walker, Burke, O'Donnell, Harvey, Crighton, Toof, Kelly, Green, and Grace, aldermen—

A quorum being announced, the chairman took his seat and called the board to order, &c.

Report from the city attorney.

GENTLEMEN: The receipts from the navy-yard property since my appointment have amounted to $3,884 02; of this amount, I have paid the attorneys of the bondholders $3,600 00, leaving a balance to account for $234 02.

Altho' the receipts from the navy-yard property cannot remain in my hands any length of time, and cannot accumulate a large sum, I shall prefer to give bond for the proper appropriation of the money, and respectfully ask the mayor to fix the amount of said bond.

241 Respectfully,

SMITH P. BANKHEAD,
Special Attorney.

Referred to the committee on bonds.

MEMPHIS, *July 17th*, 1866.

To the Hon'l Board of Mayor and Aldermen of the City of Memphis.

GENTLEMEN: Mr. Latrobe, of Baltimore, is the holder of some coupons of the Memphis and Little Rock Railroad, which fell due in 1860 & 1861. He states that he sent these coupons to Charleston when they were due, for payment, and that he was informed there were no funds on hand to pay them.

Under the supposition that all these coupons had been paid, no provision was made for them in the decree.

I therefore recommend that the coupons be received in payment of taxes or other city indebtedness.

SMITH P. BANKHEAD,
Special Attorney.

Referred to the finance committee.
Record book 12, page 19 & 20.

Finance committee report.

Upon the petition of Miss Mary Powers for the remission *of the remission* of the city tax and rents to the city, on certain lots in the navy yard, of which she claims to be the lessee, say, whilst the said lots, improvements, &c., were in the possession of the United States military authorities, on' lot for ten, and the other for twelve months, the
242 report of the committee was in favor of granting the prayer of the petition.

Adopted.
Record book 12, page 22.

Upon the petition of E. De F. Morgan, for commissions, &c., alleged to be due to him for services as navy-yard trustee, &c., the report of the committee was, that legal questions being involved in the matter, the papers and question should be referred to the present city attorney for investigation and report; which was approved by the board.
Record book 12, page 22.

CITY HALL, *Memphis, Aug't 7*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, August 7th, 1866—

Present, Hon'l John Park, mayor, Messrs. Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Leonard, Walker, Burke, O'Donnell, Creighton, Harvey, Toof, Kelly, and Grace, aldermen —

A quorum being announced, the chairman took his seat and called the board to order, &c.

Committee on office' bonds' report.

In relation to the bond of the city attorney as navy-yard receiver, the committee reported in favour of fixing the bond at $30,000, and the report of the committee was concurred in by the board.

Record book 12, page 42.

Resolution.

243 *Resolved*, That the chairman of the board appoint a committee of five, whose duty it shall be to investigate and approve all acts of the receiver of the navy yard in relation thereto.

When the chairman appointed Messrs Leonard, Walker, Johnson, Grace, and O'Donnell the committee.

Record book 12, page 49.

Navy-yard grounds west of Wolf River.

By Alderman Morgan:

Resolved, That the city engineer be instructed to lay off the grounds between Wolf River and the Mississippi River, say about 40 acres, in such lots as may be agreed upon by the mayor and finance committee, and that the mayor be authorized to advertise the same for sale giving thirty days' notice, upon such terms as may be agreed upon by the said mayor and finance committee.

Adopted.

Record book 12, page 49.

CITY HALL, *Memphis, August 7th*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Aug't 7th, 1866—

Present, Hon'l John Park, mayor, Chairman Hill, O'Mahoney, Glancy, Johnson, Morgan, Leonard, Walker, Burke, O'Donnell, Creighton, Harvey, Toof, Kelly, and Grace, aldermen.

Report of city attorney on E. De F. Morgan's claim.

GENTLEMEN: In the matter of E. De F. Morgan, esq'r.,
244 claiming his per centage for sales of navy-yard property, that, having grave doubts as to the power of the board to authorize any action in the matter, I sought the advice of E. M. Yerger, esq'r., whose opinion is herewith filed in regard to the effect which the injunction served upon the mayor before the sales were made would have. Mr. Yerger is of the opinion this injunction does not effect the claim of Mr. Morgan to his commissions on the sales. He says: Whether they, the board, acted on that authority of law or not, is not a question in the determination of the matter. As regards their liability, so far as this opinion refers to the claim for commissions on sales, I cannot concur; but I do concur, so far as it refers to the liability of the board to pay Mr. Morgan a proper compensation for his services. The board directed Mr.

Morgan to perform certain duties and he must be paid therefor whatever he may establish to be a fair and reasonable compensation. I do not wish to be understood as saying the amount claimed is excessive. I simply express the opinion that he is not entitled to any commissions on sales, but is entitled to a fair compensation for services rendered.

SMITH P. BANKHEAD,
City Attorney.

Referred to finance committee.
Record book 12, page 33 & 34.

Committee on officers' bonds.

The committee in relation to the bond of city attorney as navy-
245 yard receiver, reported in favor of fixing the bond at $30 M; and the report was concurred in—
Record book 12, page 42.

In the chancery side of the common law & chancery court of Memphis.

ROBE'T I. ADAMS ET AL.
vs.
MEMPHIS & LITTLE ROCK RAILROAD Co. & others. } N. R. D.

The cause was again heard on the 9th day of March, 1866, before the Hon'l William M. Smith, judge &c., upon the former order and proceedings, and the report of the clerk and master filed herein on the 2d day of March, 1866, in the words and figures following:

Chancery side of the common law and chancery court of the city of Memphis.

R. S. ADAMS & OTHERS
vs.
THE MEMPHIS & LITTLE ROCK RAILROAD Company, the Mayor & Aldermen of the City of Memphis, & others.

The clerk and master respectfully reports that, in obedience to an order of reference in the above-stated cause, entered on the 17th day of February, 1866, directing him to take proof and report a proper and suitable person to be appointed a receiver in this cause, and the amount of bond and security that should be executed from said receiver, he, in pursuance thereof, assigned the 2nd of March, 1866, as a suitable day for taking proof preparatory to making said report, and gave the parties in interest, or the solicitors, due notice of the time and place of taking the same.

246 At the appointed time the name of B. B. Waddell was presented before him as a suitable person to be appointed as said receiver, and the depositions of M. J. Wicks, T. C. Bettis, and W. C. McClure, were taken touching the qualifications of B. B. Waddell, and the amount of the bond that should be required.

From the proof thus taken the clerk and master is of the opinion and so finds that, the said B. B. Waddell is a suitable and proper per-

son to be appointed in this cause, and that a bond for thirty thousand dollars ($30,000) would be sufficient to be executed from him.

All of which is respectfully submitted.

March 2nd, 1866.

AUGUSTON ALSTON,
Clerk & Master.
By BEN. COLEMAM,
D. C. & M.

And the same not being excepted to is in all things confirmed by the court.

And it appearing, therefore, that B. B. Waddell is a suitable and proper person to act as receiver in this cause, and that the amount of the bond which ought to be executed by him as such receiver is $30,000:

It is therefore ordered by the court, that said B. B. Waddell be, and he is hereby, appointed a receiver of the real estate and improvements, known as the Memphis navy-yard property, and particularly described in the pleadings and exhibits in this cause. But such receiver, before entering upon the duties, shall enter into bond with satisfactory security before the clerk and master in the penalty of thirty thousand dollars, ($30,000) payable to the State of Tennessee, conditioned for the faithful discharge, the duties of such receiver, by said B. B. Waddell, and
247 to obey the order of the court; and that said B. B. Waddell on filing and giving said bond in the office of the clerk and master be, by force of this order and of said board, vested with said navy-yard property, and invested with all the rights and powers as receiver according to law.

That when so appointed said receiver shall forthwith take possession of said property and any part thereof, except such parts as may be occupied by tenants of the mayor and aldermen of the city of Memphis, under contracts of lease or renting, and who have and are complying with the terms of their contracts; and all tenants of said property are ordered to allow to and become the tenants of said receiver, who will permit them still to occupy the parts of said property which may have been leased to them by the mayor and aldermen of the city of Memphis, upon condition that they pay forthwith to said receiver, all arrearages of rent due by them under their contracts respectively, and in all other respects comply with the terms and conditions of the lease.

The defendants (the Mayor and Aldermen of the City of Memphis) and their agents and attorneys and officers, are hereby strictly enjoined from exercising or attempting to exercise any control or authority over said property or the tenants thereof in any manner; and they are ordered by the court, upon the application of said receiver, to deliver to him forthwith all leases and contracts and other papers relating to the renting or leasing of said property and all parts thereof, and to furnish
248 him also with a written statement of the account of each of said tenants showing the amounts paid & still due by each; and also with all other papers or relating to said property and leases, which he may demand or which shall be necessary to the discharge of his duties.

Said receiver is authorized and directed to exercise all of the rights, duties, and powers which are delegated under all leases, and contracts to the city of Memphis or to its officers and agents, and in all cases and when the tenants have by the terms of their leases or contracts forfeited their leases or rights, said receiver is authorized and directed to enforce such forfeiture according to the terms of said contract by such sale or otherwise; and in all cases when any agent or officer of the

mayor and alderman of Memphis is empowered by any lease or contract to sell any of said property leased, the receiver is hereby empowered and ordered to make such sales in pursuance of said contracts.

Whatever the mayor and aldermen of the city of Memphis, or any of its officers or agents, are empowered to do under said contracts, *and* he is ordered to exercise said rights, and to perform said duties promptly. *In the according* to the best judgement of said receiver, any tenants of parts of said property are good tenants, and will forthwith pay all arrearages of rent, and will in all respects comply with their contracts, said receiver is permitted to wa'ive any forfeiture of lease by past delinquency or breach or contract. He is ordered and empowered to promptly enforce such forfeiture, and to that end he may bring such suits,
249 employ such legal assistance, and incur such expenses as may be necessary and proper. Said receiver shall also forthwith lease and rent any property recovered by him, by virtue of any forfeiture or otherwise, and the balance of said property and improvements not occupied or leased upon such terms and conditions, and for such time, not exceeding five years, by public or private contracts, as his judgement shall be meet for the interests of the parties to this suit; and for the payment of rents promptly and certainly, he shall take such security, personal or otherwise, as in his opinion best secure the payment thereof. The terms of such lease in *in* reference to improvements to be erected, by leases and otherwise, are committed to the judgement and discretion of said receiver.

Said receiver is generally empowered to bring suits and take such steps, legal or otherwise, as shall be lawful and necessary for the collection of rents recovery of any parts of said property.

ROBERT S. ADAMS ET AL.
vs.
MEMPHIS & LITTLE ROCK RAILROAD COMPANY et al. } H. D. 537.

This cause coming on for further hearing on the 11th day of July, 1866, before the Hon'l W. M. Smith, chancellor, upon the *procedends* from the State in the words and figures following, to wit:

THE STATE OF TENNESSEE:

Pleas before the supreme court of said State, at term began and held in Jackson—present the Hon'l Alvin Hawkins, Samuel Mulligan,
250 Jo. Shackleford—to wit:

APRIL 27TH, 1866.

ROBERT S. ADAMS, IN HIS OWN RIGHT, AND as administrator of Wyatt May, dec'd; Francis E. Whitfield, William Dickson, R. H. Roisus,
vs.
THE MEMPHIS AND LITTLE ROCK RAILroad Company, the Mayor and Aldermen of the City of Memphis, Samuel Oats, and James Elder.

This cause came on to be heard upon the second proceedings and decree of the chancery side of the common law and chancery court of the city of Memphis, and, upon the appeal of the defendants therefrom, and the court being of the opinion that, in the overruling and disallow-

ing of the def'ts' demurrer to complainants' bill, there is no error, doeth order and adjudge that the decree aforesaid be in all things affirmed, and the cause remanded to the chancery side of the common law and chancery court of the city of Memphis for further proceedings thereon.

It is further adjudged and decreed that defendants and Samuel T. Morgan, their securities, pay the costs of this court; for which let execution issue.

THE STATE OF TENNESSEE:

I, John L. Brown, clerk of the supreme court of said State, at Jackson, certify that the foregoing is a true transcript, as well *as* of the judgements as of the opinion of said court, the same being upon record in my office.

Witness my hand at office June 11th, 1866.

JNO. L. BROWN, *Clk.*

Which being seen and understood by the court, the same is thereupon ordered to be, and is hereby, made the decree and judgement of this court.

251 Whereupon said cause coming on for further hearing upon the contract and agreement, made by complainants with the City of Memphis, herewith filed in the words and figures following, to wit: -

Whereas in the case of Rob't Adams et al. vs. The Memphis and Little Rock Railroad Company, The Mayor and Alderman of the City of Memphis, et al., pending in the chancery court of Memphis, it has been decided by the supreme court of the State of Tennessee at the April term, 1866, thereof that the mortgage of the navy-yard grounds and premises by the Mayor and Aldermen of the City of Memphis in 1857, to secure three hundred thousand dollars of the bonds of the Memphis and Little Rock Railroad Company, and the interest warrants or coupons thereon, &c., is valid and binding upon the City of Memphis, and entitles the complainants in said cause to have said navy-yard property and premises placed in the hands of a receiver, which the court has ordered to be done, and the receiver appointed for the purpose of collecting the rents arising therefrom, and have the same applied, according to the provisions of said mortgage, in payment of complainant's past dues and accruing interest on said bonds, as well as the bonds themselves at maturity, and to call upon the City of Memphis for an account of the rents and profits received by it from said property, and not applied in payment said interest, according to the provisions of said mortgage, for the full amount of which the City of Memphis is liable

252 to complainants as the holders of said bonds, with interest.

And whereas the City of Memphis are desirous of having the continued management and control of said navy-yard property and premises, and the decree in the above cause appointing a receiver of the property may be so far modified as to allow the city to continue its said control and management of the same, but in strict conformity to, and under the express provisions and trusts of, the aforesaid mortgage in favor of the bonds secured thereby:

And in order to effect this compromise and settle and adjust fully the questions between complainants in the above-entitled cause and the City of Memphis in reference to the past-due coupons and the future accruing interest on said bonds, and the receivership of said property, said parties complainants and the City of Memphis, by their respective attorneys, hereby enter into the following contract and agreement, to wit:

First. It is agreed, on the part of the City of Memphis, that the past-due coupons now held by complainants, and amounting, with interest, to the sum of $41,826 40, exclusive of 750 owned by complainant Dixon, and not embraced in said contract, as shown by a statement agreed on, shall be paid to complainants in the following manner, to wit: That the sum of twenty thousand eight hundred and twenty-six $\frac{40}{100}$ dollars, ($20,826 40,) being about the amount standing on the city books to to the credit of said navy-yard grounds shall be forthwith placed
253 to the credit on the city books of W. C. McClure, as the agent of the complainants, to be absorbed in the payment of taxes or rec'd by the city in payment of debts or liabilities due at and for those purposes, to be subject to the check of said McClure; and that for the balance of said past-due coupons amounting to $21,000; the July interest or coupons for 1866, not being included in the bonds of the city proposed to be issued, having years to run bearing p'r cent. interest, shall and will be given at par, as the same can be issued. Complainants are to surrender and deliver up said past-due coupons upon the receipt of said bonds, and the compliance with the other provision as to the $20,826 40 to be placed to the credit of W. C. McClure.

Second. It is further agreed on the part of the City that the July, 1866, coupons held by complainants and amounting to $3,920, shall and will be forthwith paid in cash, so far as the receipts and collections of the city from said property in par funds will extend, and that any balance of said coupons, July, 1866, shall and will be received in payment of all taxes and debts due the city.

Thirdly. It is further agreed, on the part of the City of Memphis, that the rents and profits arising from said navy-yard premises shall not be subject to general appropriation by the city. That the city or its agents shall collect and receive for nothing but par funds in payment of rents arising from said navy-yard property, the full amount of which is
254 to be applied in par funds to the payment of the interest on said bonds, as provided and directed by the terms of said mortgage. And further, that any amount of coupons not paid as aforesaid by receipts from the navy-yard property are to be received by the city of Memphis in payment of all taxes due to the city, as well as in payment of any and all indebtedness and liabilities to the city.

Fourth. It is further agreed, on the part of the City, that the coupons of said bonds falling due July 1st, 1866, as well as the future accruing interest or coupons may, at the election of the holders thereof, be used in the payment of all taxes, debts, and liabilities due the city, and the city shall and will so receive them.

Fifth. It is further agreed, on the part of the City, that the 750$ of coupons held and owned by complainant Dixon, and not embraced in the annexed statement, shall and will be allowed and paid to him, as provided in article first of this agreement, upon his proof of their loss by affidavit and giving bond as required by law to hold the city harmless.

In consideration of the above stipulation on the part of the City of Memphis, it is agreed, on the part of said complainants to take no further steps in said cause *n*epending in the chancery court at Memphis, but that the same shall remain in court without any discontinuance of the suit, and that the decree heretofore made in said cause, appointing a receiver of the property, shall be so far modified as to discharge
255 said receiver and allow the city to resume the control and management of the property so long as the foregoing stipulations on the part of the city are strictly complied with; but it is expressly understood and agreed that, upon any failure herein, on the part of the city

the said navy-yard property is to be again in the hands of a receiver under the decree heretofore rendered in said cause.

It is further understood and agreed that, upon the compliance on the part of the city with the foregoing stipulations on its part, a decree shall be entered in the above cause, based upon its contract and agreement, which shall be made a part thereof. Complainants further release and transfer to the City of Memphis and its agents, all the rights and power vested in the receiver under the decree in said cause as to forfeiting leases and enforcing the collection of rents, &c., in as full and ample manner as they can do so.

In witness whereof *whereof* said parties, by their solicitors, hereunto set their hands this 30th day of June.

ESTES & JACKSON,
Att'ys for Complainants.
SMITH P. BANKHEAD,
Special Att'y M. & Ald. of Memphis.

Which, by consent of parties, is ratified and made the judgement and decree of the court according to the terms and stipulation of said contract.

It is further ordered and decreed by the court, by consent of parties, that the receiver heretofore appointed in this cause is hereby
256 discharged for the present, and the City of Memphis and its agents allowed to resume control over, and management of, said navy-yard property and the rents and profits thereof, under and according to the terms of the above-recited contract and the provisions of the mortgage, without however making abatement or discontinuance of this cause, and with the right expressly reserved on the part of complainants to have said navy-yard property and the rents thereof again placed in the hands of a receiver on the failure of the city to perform any of its stipulations and agreements, as set forth in said contract; and during its said control over, management of, said property and rents, said city and its agents are invested with all the powers and authority conferred upon the receiver heretofore appointed under the decree appointed by this court in respect to the enforcement of the collection of rents from the tenants of said property declaring forfeiture of lease, &c.

STATE OF TENNESSEE, *Shelby County:*

I, Auguston Alston, clerk and master of the chancery court of Memphis, do hereby certify the foregoing to be a true and perfect copy of a transcript of part of the proceedings in the above cause, as the same appears of record in my office.

In testimony whereof I have hereunto set my hand and seal of office, this 10th day of September, A. D., 1866.

[SEAL.]
AUGUSTON ALSTON, *C. & M.*
By BEN. COLEMAN, *Dep'ty C. & M.*

257 Fees $6.

"Mortgage" to secure $300 M Memphis & Little Rock Railroad bonds.

Whereas, by an ordinance heretofore passed by the board of mayor and aldermen of the city of Memphis, a municipal corporation, situated in Shelby County, Tennessee, and duly organized and acting under a charter passed by the legislature of the State of Tennessee, all the grounds and improvements thereon as the navy-yard propert' belong-

ing to said city, and appropriated to the first section of the Memphis and Little Rock Railroad, from the west bank of the Mississippi River, opposite the city of Memphis, to Little Rock, in the State of Arkansas, upon certain conditions in said ordinance specified:

And whereas the mayor of the city of Memphis is, by said ordinance, fully authorized and empowered, upon said conditions being complied with by the Memphis and Little Rock Railroad Company, to mortgage said grounds and improvements to secure the prompt and certain payment of $300 M of past bonds of the Memphis and Little Rock Railroad Company, to be payable fifteen years after this date, but bearing interest at the rate of seven per cent. p'r annum, payable semi-annually, in Charleston, S. C., or N. Orleans, Louisiana, for coupon warrants to be attached to said bonds:

And whereas the conditions referred to in said ordinance have
258 been fully complied with by the Memphis and Little Rock Railroad Company:

And whereas, by the second section of said ordinance, the revenues to arise from said navy-yard property, not to exceed thirty thousand dollars per annum, are to be appropriated to the payment of the interest on said bonds, and the surplus, after paying the semi-annual interest, to be reserved and held as a sinking fund for the redemption of said bonds; and, therefore—

This indenture, made between the Mayor and Aldermen of the City of Memphis and A. H. Douglass, as mayor of said city, of the first part, Samuel Tate and James Elder, citizens of Shelby County, of the second part, and the Memphis and Little Rock Railroad Company, a corporation duly organized and acting by virtue of a charter passed by the legislature of the State of Arkansas, of the third part, witnesseth:

That the parties of the first part have this day bargained and sold, and in consideration of the before recited premises and the sum of five dollars paid them, do hereby bargain, sell, alien, and convey to the parties of the second part all that parcel or tract of land lying in the city of Memphis, in Shelby County, Tennessee, and known as the navy-yard property, being the same tract or parcel of ground designated on the map of the city of Memphis and its env'rons, made by Todd & Crider, as the "United States naval depot" to which map reference is hereto made for boundaries, containing seventy-five acres, more or less, to have and to hold the
said lands, together with the improvements and appurtenances
259 thereto belonging, to the said Samuel Tate and James Elder and their heirs and assigns, forever.

But this deed being made for the purposes of securing the prompt and certain payment of ($) three hundred thousand dollars of the past bonds of the Memphis and Little Rock Railroad Company before-mentioned, and the interest thereon, as per coupon warrants before recited, and for no other purpose, the parties hereto have agreed, and do bind themselves, to the following stipulation—

First. It is understood and agreed that the Memphis and Little Rock Railroad Company are to issue their bonds, bearing date of July, A. D. eighteen hundred and fifty-seven, and payable fifteen years after date, for one thousand dollars each, and numbered from one to three hundred, inclusive, making the aggregate sum of three hundred thousand dollars. These bonds are to bear interest at the rate of seven per cent. per annum, payable semi-annually, either at Charleston, South Carolina, or New Orleans, Louisiana, and at the option of the said railroad company, per coupon warrants in the usual form, to be attached to said bonds.

Second. It is understood and agreed that the mayor and aldermen of

the city of Memphis as a body corporate to pay said bonds and the interest as aforesaid as the same may fall due; and the said mayor and aldermen hereby bind themselves to appropriate the revenues arising from any renting, leasing, and taxes heretofore made, or hereafter to be made, of any portion of said navy-yard grounds or
260 improvements, not to exceed in amount the sum of thirty thousand dollars per annum to the payment of said interest, as per coupon or warrants before-mentioned, & to reserve the surplus of said thirty thousand dollars per annum, after said interest, as a sinking fund, to be held and appropriated alone to the retirement of the bonds before-mentioned.

Third. It is further agreed that, in the event any one or more of these bonds fall due, and are not paid by the mayor and aldermen of the city of Memphis, the said Samuel Tate and James Elder, or the survivor, should one of them be dead, or their successor or successors, as the case may be, shall forthwith proceed to lay off said grounds into suitable lots, and after giving sixty (60) days' notice of time and place of sale in two newspapers, published in Memphis, or otherwise, if the person or persons acting shall think proper, shall proceed to sell the same, or so much thereof as may be necessary, to the highest bidder for cash. The purchaser at such sale shall have and acquire a full and perfect title, fee-simple, absolutely free from the equity of redemption, and all other equities, which are hereby expressly waived; and the trustee, acting in this matter, shall execute on the behalf and in the name of the Mayor and Aldermen of the City of Memphis, deeds in fee-simple absolutely, with covenant of warranty, which are hereby ordered to binding upon said corporation firmly and forever. Should a sale or sales be made
261–262 by said trustee, or other persons acting, the proceeds arising therefrom shall be appropriated, first, to pay the cost and charges of executing this trust, including reasonable compensation to the trustee; second, to the payment of such bond or bonds before-mentioned as may be due and unpaid; and third, the surplus shall be paid into the city treasury.

Fourth. It is further agreed and understood that, if any portion of the interest of said bonds, as per coupon warrants aforesaid, shall fall due and not be paid promptly, said Samuel Tate and James Elder, or the survivor, successor or successors, as the case may be, shall or may proceed to collect such rents, lease-money, and taxes as may become due from every tenant of said ground, not exceeding thirty thousand dollars per annum; or if there should not be sufficient from rents, leases, or taxes already existing for the purpose herein intended, said trustee, or the survivor, or successors, as the case may be, shall or may proceed to make either leases or to rent out other portions of said grounds or improvements to raise a sum sufficient therefor, and shall apply the monies so arising, after retaining all expenses and proper charges, to the payment of said interest as may be due and unpaid on said coupon warrants. Should any surplus be left, after paying said interest, it is to be paid into the city treasury, to become part and parcel of the sinking fund for the retirement of the bonds before-mentioned, and so to be held and appropriated.

Fifth. It is further agreed that, in the event of the death, resig-
263 nation, or removal of either of said trustees, the other shall have full power to act, and should both of them die, resign, or remove, that court having chancery jurisdiction over that portion of the county of Shelby, Tennessee, in which the city of Memphis is situated, shall, upon the application of either the Memphis and Little Rock Railroad Com-

pany, or of any holder of one or more of the bonds hereinbefore mentioned, appoint one or more persons, at the direction of the court, to carry out the trusts hereinbefore secured, and all the actings and doings of said trustees within the meaning of this deed are held and declared to be as binding as if done by said Tate and Elder.

Sixth. It is further understood that nothing herein contained shall debar the Memphis and Little Rock Railroad Co. from issuing any other bonds said company may think proper to issue. The three hundred thousand dollars of bonds herein secured shall have the certificate of the trustees thereon, that they are secured by this deed, and no other bonds issued by said railroad company shall have said certificate upon them.

Seventh. It is further understood and agreed that, upon the payment of the bonds and interest hereinbefore mentioned, all the rights and benefits in the third and fourth sections of the ordinance beforementioned are to inure to the benefit of the city of Memphis; and the Memphis and Little Rock Railroad Company hereby bind themselves faithfully to comply with the terms of said section.

264 Eighth. And it is mutually agreed, and these presents are upon this express condition, that, if the said city of Memphis shall fully pay and discharge the interest and principal of the bonds so as aforesaid to be issued, and which this indenture is made to secure, or if, at any time, prior to the maturity of said bonds, the holders thereof should or return them by accepting the stock of the road in their stead, then this indenture and the interest and estates hereby granted by it to the said trustee shall be utterly null and void, and the said navy-yard property, and every part thereof, and all the right, title, and interest therein, and any previous interest hereby created and made, shall revert in and to the said parties of the first part, in law and fact, without any acknowledgement, satisfaction, reconveyance, or any other act, to all intents and purposes whatever.

In faith whereof the Mayor and Aldermen of the City of Memphis have caused their corporate seal to be hereto attached, and A. H. Douglass mayor of said city, Samuel Tate, and James Elder have signed and sealed this deed, and the Memphis and Little Rock Railroad Company, by their president, have signed and sealed the same this the 10th day of May, one thousand eight hundred and fifty-seven.

[SEAL.]

A. H. DOUGLASS, *Mayor.*
SAM. TATE, *Trustee.*
JAMES ELDER, *Do.*
W'M ROBINSON,
Pres't M. & L. R. R. C'p'y.

Attest:
L. R. RICHARDS, *City Recorder.*
265 HOORE, *D. C.*
MAY 12, '57.

STATE OF TENNESSEE, *County of Shelby:*

Personally appeared before me, John P. Trezevant, clerk of the county court of said county, A. H. Douglass, Sam'l Tate, James Elder, and John Robinson, the bargainers to the foregoing mortgage, with whom I am personally acquainted, and who acknowledged that they executed the same for the purposes therein contained, and the said A. H. Douglass, mayor, and John Robinson, president of the Memphis and Little Rock Railroad Company, acknowledged the execution of the said mort-

gage with the seals of their respective corporations and for the purposes therein contained.

Witness my hand and seal, at office, June 29th, A. D. 1857.

JOHN P. TREZEVANT, *Clk.*
By JOHN H. HARRISON, *D. C.*

STATE OF TENNESSEE, *Shelby County:*

This deed in trust was filed in my office for registration on the 30th day of June, 1857, at 12 o'clock p. m., and so noted in note-book No. 3, page 272, and was duly recorded on the 5th day of July, 1857.

HENRY LAKE, *Register.*

STATE OF TENNESSEE, *Shelby County:*

I, Charles W. Johnson, register of said county, do hereby certify that the foregoing is a full, true, and perfect copy from the records of my office, book 29, pages 446, 447, 448, 449, and 450.

Witness my hand at office this 13th day of September, A. D. 1866.

266 CHARLES W. JOHNSON,
Register.

Record book 12, pages 104 to 114.

CITY HALL, *Memphis, Sept. 18th*, 1866.

At a regular meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday evening, Sept. 18th, 1866—

Present, Hon'l John Park, mayor, Messrs. Glancy, Johnson, Morgan, Leonard, Walker, Wunderman, Harvey, Creighton, Kelly, Toof, O'Donnell, and Grace, aldermen—

A quorum being announced, Aldermen Walker, upon motion, in the absence of the regular chairman, took the chair, and had the roll of the aldermen called, and, on motion, the reading of the mortgage was suspended for the present.

Upon the communication of E. De F. Morgan, late city attorney, for compensation as city attorney in the navy-yard matters, the committee submitted the claim, with the accompanying papers, and the same was, on motion, laid on the table.

Record book 12, page 97.

Resolution.

Resolved, That the city register spread upon the records of the city of Memphis the mortgage of the city to secure $300 M, principal and interest of the 15 years' bonds of the Memphis and Little Rock Railroad Company, bearing 7 per cent. per annum int., payable semi-annually at the city of Charleston. The city pledges her navy-yard property for the prompt payment of the interest on said bonds as the
267 same matures, and for the full and final payment of the principal at maturity; also, the proceeding and decrees in the chancery court of Memphis, and the supreme court of Tennessee, at Jackson, in the cause of R. S. Adams vs. Sam'l Tate, James Elder, and the Mayor and Aldermen of the City of Memphis, involving the Memphis navy-yard property, together with all the papers and agreements in connection therewith.

Book 12, page 104.

CITY HALL, *Memphis, Oct'r 9th*, 1866.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, October the 9th, 1866—

Present, Hon'l John Park, mayor, Messrs. Glancy, Johnson, Morgan, Wunderman, Walker, Burk, O'Donnell, Harvey, Creighton, Kelly, Toof, and Grace, aldermen—

A quorum being announced, Alderman Johnson, upon motion, took the chair, when the roll of aldermen was called, and the minutes of the proceedings of the several meetings were read and adopted.

The official bond of S. P. Bankhead, as receiver of the navy-yard rents, &c., for thirty thousand dollars, with , as securities for the faithful performance of his duties as receiver, &c., as aforesaid, was presented and accepted by the board.

Record book 12, page 136.

CITY HALL, *Nov'r 13th*, 1866.

268 At a called meeting of the board of mayor and aldermen of the city of Memphis, held Nov'r 13th, 1866—

Present, Hon'l W. O. Lofland, mayor, Aldermen Glancy, Powers, Johnson, Cochoran, Amis, Lynn, Holst, O'Donnell, Townsend, Smith, Lemon, and Passmore—

A quorum being announced, Alderman Johnson, upon motion, took the chair, and called the board to order, when the roll of the aldermen was called, and the object of the meeting announced to be for the purpose of attending to the unfinished business, &c.

Resolution.

By Alderman Amis:

Resolved, &c., That the mayor be, and he is hereby, requested to inquire into the condition of the lots in the navy yard formerly used for a city hospital, whether the same is now in the possession of the Government, and whether it can be had for the purpose of a city workhouse.

Adopted.

Book 12, page 195.

CITY HALL, *Memphis, Dec'r 4th*, 1866.

At a regular meeting of the board of mayor & aldermen, held Dec'r 4th, 1866—

Present, Hon'l' W. O. Lofland, mayor, Chairman Hulburt, Aldermen Glancy, Powers, Johnson, Cockoran, Wickershan, Ames, Boling, Lynn, Holst, O'Donnell, Shaw, Townsend, Smith, Lemon, & Passmore—

A quorum being announced, the chairman took his seat and called the board to order, &c.

City attorney's report.—Navy yard.

269 To the Hon'l' Mayor & Ald., &c.:

The question submitted to me at your last meeting, as to whether the agent of the city for the navy-yard property can take the coupons of the Memphis & Little Rock Railroad bonds, secured by mortgage of said property, in payment of rent due the city for the property, has been investigated by me, with the following results, which I submit as my opinion:

The property was mortgaged by the city under an ordinance to secure the payment of $300 M of the M. & L. R. R., in numbers of $1,000 each, numbering from one to 300, at 7 p'r cent. interest per annum, payable semi-annually in the city of Charleston. The liability of the city for these bonds under the mortgage was tested at the last term of the supreme court, at Jackson, and decided adversely to the city, by a decree of the court, that the navy-yard property was taken from the possession the city and placed in the hands of a receiver of the court. Subsequently, by agreement by the city and the holders of the bonds, the property was given back to the city to hold and collect the rents as trustee for the bondholders. The property is now in the possession of the city, and the rents being collected by the agent of the city, S. P. Bankhead, esq'r.

The question arises under this agreement, which is made the decree of the court, what kind of funds shall be received in payments of the rents.

The coupons secured by the mortgage are to be received; for the mortgage was made to secure the payment of these particular
270 bonds, and the property, with its rents, is liable for their payment, both by the mortgage and the decree of the court, and when received by the trustee they go to that extent in redeeming that particular indebtedness.

Again, can the city receive, through its agent, any other funds except these coupons and par funds in payment of these rents? It cannot; and cannot take its own indebtedness in payment, but must receive only these coupons and par funds. The city is a trustee for these bondholders, and can receive only such funds as will be received by them. The decree of the court limits her only to such receipts, and if she violates the decree the court can remove her from the trusteeship & place the property again in the hands of a receiver. It will, of course, be understood, that only the coupons of the mortgaged bonds are to be received.

Respectfully,

R. J. MORGAN, *City Att'y.*

Record book 12, page 226.

MEMPHIS, 17*th November*, 1845.

Called meeting of the board of mayor & aldermen of the town of Memphis, met by order of the mayor—

Present, I. I. Finley, mayor, Messrs. Locke, Allen, Wright,
271 Shanks, Foulkes, Looney, Maltborie, Chase, and Apperson, aldermen—

When the following proceedings, amongst others, were had, to wit:

The following resolution, by Dr. Foulkes, was offered, and, upon motion, adopted, viz:

Resolved by the board of mayor & aldermen of the town of Memphis, That it is with deep regret that we find the delay of the Navy Department in getting under way the work upon the navy yard, as there are many laborers here, and wholly dependent upon their labor & industry for the means of subsistence; having come in expectation of employment upon the public works.

Resolved, That the low rates at which the work has been taken induces us to apprehend that the bidders have no serious intention to close and perform them, and that our experience satisfies us that unless a remunerating price be paid, that it is seldom that contracts are performed as required, and that such fear is felt that the work will be delayed, and

the Navy Department will be subjected to great perplexity and embarrassment by the inadequacy of the prices bid for the work let out.

272 *Resolved*, That the mayor forward these resolutions to our representation in Congress, to be laid before the Secretary of the U. States.

STATE OF TENNESSEE,
Shelby County, City of Memphis:

This is to certify that the foregoing is a true and perfect extract, copied from the records and adopted minutes of the proceedings of the board of mayor and aldermen of Memphis.

In testimony whereof I, Lewis R. Richards, city register and keeper of the records and corporate seal of the aforesaid city, have hereunto set my hand and affixed said seal, this M'rch 5, A. D. 1867.

L. R. RICHARDS,
City Register.

273 *Memphis navy-yard grounds & appurtenances.*

CITY HALL, *Memphis, August 17th*, 1854.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Thursday, August 17th, 1854—

Present, his honor the mayor, Messrs. Chairman Douglass, Jenkins, Morgan, Smithwich, Street, Hopkins, Neal, & Curtis, aldermen—

The mayor layed before the board the following communication, received from Hon'l' J. C. Dobbins, Secretary of the Navy, and the opinion of the Hon'l' Caleb Cushing, Att'y Gen'l of the United States, touching the recent donation, on the part of the Congress of the United States, of the Memphis navy yard, &c., to the mayor and aldermen of the city of Memphis:

Communication.—Hon'l' J. C. Dobbins, Sec't'y, &c.

NAVY DEPARTMENT, *August 11th*, 1854.

To the Mayor of Memphis.

SIR: Congress at its recent session incorporated into the Navy appropriation bill the following section:

SECTION III. *And be it further enacted*, That all grounds and appurtenances thereunto belonging, known as the Memphis navy yard, in Shelby County, Tennessee, be, and the same is hereby, ceded to the Mayor and Aldermen of the City of Memphis, for the use and benefit of said city; and that the Secretary of the Navy order the commandant of said navy yard at Memphis to surrender to the mayor of Memphis said property: *Provided*, That the accounting officer of the Treasury, in settling the accounts of the late navy agent at Memphis, shall

274 not deduct the sum of two thousand nine hundred and sixty-four dollars and fifty-nine cents, already received by *by* him, and passed to his credit, on the books of the Treasury Department, for his salary as acting purser, provided for by an act making appropriations for the naval services of the country for the year ending 30th June, 1855.

In order that the Department might avoid mistake from an erroneous construction of the law, the subject was immediately referred to the Attorney General for an opinion, a copy of which is herewith enclosed.

On receiving information from you that the mayor and aldermen of Memphis will accept of the cession proposed, I shall proceed, at the

earliest practical moment, to carry the law into execution, and direct the commandant to surrender the navy yard and appurtenances accordingly. Hoping to hear from you of the views of the mayor and aldermen, at your convenience,

I am, very respectfully, your ob't serv't,

J. C. DOBBIN.

STATE OF TENNESSEE,
Shelby County, City of Memphis:

This is to certify that the above and foregoing is a true and perfect extract copied from the duly recorded and adopted minutes of the proceedings of the board of mayor and aldermen of the aforesaid city of Memphis.

In testimony whereof I, Lewis R. Richards, city register and
275 keeper of the records and corporate seal of said city, have hereunto set my hand and affixed said seal this M'ch 4, 1867.

L. R. RICHARDS,
City Register.

CITY HALL, *Memphis, August 22d*, 1854.

It was then moved and seconded that Mr. Patrick's preamble and resolution proposing to hold the matter of acceptance or rejection on the part of the city under advisement until the first Tuesday in October next *to* be taken up, which was agreed to, when, on motion, they were adopted, to wit:

Whereas this board has been notified, through the Secretary of the Navy, of the passage of an act of Congress ceding to the city of Memphis the navy-yard grounds, with the appurtenances thereunto, which act of cession only needs the acceptance of the mayor and aldermen of Memphis to be consummated, and to go into full force and effect; and whereas the abandonment of the work by the Government equally concerns the people of the States of the Mississippi Valley, at whose request it was established for national uses and purposes:

Resolved, That the board, deem's it proper and just that the people of Memphis and of the Mississippi Valley should have time and opportunity to examine and come to mature conclusions on the question of acceptance, will hold it under advisement until the first Tuesday in October next.

276 *Resolved*, That the mayor be instructed to notify the proper authorities at Washington of this resolve.

Resolved, That the city attorney be instructed to examine and report to the board what question of validity of title, if any, may arise under the cession, if accepted by the city.

When Alderman Saffarans, being seconded, offered the following resolution which was adopted, to wit:

Resolved, That his honor the mayor, be requested to call a meeting of the citizens next Saturday evening at 8 o'clock, at Exchange Hall, to consider the question of accepting or rejecting the navy yard and appurtenances.

Record book 7, page 476.

STATE OF TENNESSEE,
Shelby County, City of Memphis:

This is to certify that the within and foregoing is a true and perfect extract, copied from the recorded and adopted minutes of the proceed-

ings of the board of mayor and aldermen of the city of Memphis aforesaid.

In testimony whereof I, Lewis R. Richards, city register and keeper of the records and corporate seal of said city, have hereunto set my hand and affixed said seal this March 4th, A. D. 1867.

L. R. RICHARDS,
City Register.

277 CITY HALL, *Memphis, Oct'r 23d*, 1854.

At a called meeting of the board of mayor and aldermen of the city of Memphis on Monday, August 23d, 1854—

Present, his honor the mayor, Messrs. Neal, Curtis, Hughes, Smithwick, Morgan, Milton, Jenkins, and Patrick, aldermen—

Alderman Morgan moved, which motion was seconded, that, in the absence of Chairman Douglass, Alderman Patrick take the chair, which motion was approved, when Alderman Patrick took the chair, called the board to order, and explained the object of the meeting to be for the purpose of requesting the Secretary of the Navy to suspend the sale of all the Government property now advertised to take place at the Memphis navy yard on the first day of November next, until after the next meeting of Congress.

When Alderman Hughes, being seconded, offered the following preamble and resolution, to wit:

Whereas we, the mayor and aldermen, of the city of Memphis, view with deep regret what we conceive to have been hasty legislation in the late act of Congress ceding the Memphis navy yard and appurtenances to the city of Memphis, thereby depriving the citizens of the great valley of the Mississippi of the benefit of a great national work:

And whereas, we deem this work of equal importance to any similar work in the Eastern States, and that justice to the citizens of the great valley of the Mississippi demands its continuance:

And whereas the board of mayor & aldermen of the city of Memphis, believe that Congress may, at its next session, be induced to re-
278 consider its act ceding the Memphis navy yard to the city of Memphis; therefore,

Resolved by this board, That, in our act receiving said navy yard, we fully disclaim the design of holding it to our own use, provided that Congress shall, in its wisdom and justice to the South and West, desire to reinstate said yard, not as a rope-walk alone, but as a depot for the construction and equipment of vessels for the Navy, we shall deem it our duty in consideration that Congress agree to carry out their original plan of keeping up a navy yard at Memphis for the purpose aforesaid, alone, to convey the navy yard at Memphis to the General Government.

Resolved, That the Secretary of the Navy be notified by the mayor of the action of this board, both by mail and telegraph, with the request that he suspend the sale of the Government property at the Memphis navy yard, now advertised to take place on the 1st Nov., until after the meeting of Congress in December next.

Which proceedings were, on motion, adopted immediately by the board.

Book 7, page 512.

CITY HALL, *Memphis, Oct. 30th*, 1854.

At a called meeting of the board of mayor and aldermen of the city on Monday evening, October 30th, 1854—

Present, his honor the mayor, Messrs. Hughes, Saffarons, Patrick, Milton, Morgan, Jenkins, & Smithwick, aldermen.

When it was moved and seconded that, in the absence of the chairman, Alderman Patrick take the chair, which was approved.

Thereupon the mayor explained the object of calling the board
279 together at the present time to be for the purpose of laying before the council for their consideration and action the telegraphic despatch and other communications recently received from the Secretary of the Navy, touching the delivery to the city of the Memphis navy-yard grounds and appurtenances, and a suspension for the present of the sale of the movable property of the Government in, and attached to, said navy yard.

Whereupon the dispatch and communication accompanying were respectfully read to the board, and ordered to be recorded and spread upon the minutes.

Dispatch H.

WASHINGTON, *Octo.* 27*th*, 1854.

To A. B. TAYLOR, *Mayor:*

Your dispatch of 25th rec'd. Will be answered by mail. For the present I refer you to the dispatch sent this day to Com. Platt.

J. C. DOBBINS.

WASHINGTON, *Octo.* 26*th*, 1854.

To Comm'nt CHA'S T. PLATT:

At the request of the mayor and aldermen of Memphis, you will suspend making sale of property until further orders, provided a safe place in the yard is allowed for the preservation of it. In the mean time you will, however, make an unconditional surrender of the navy yard & appurtenances to the mayor & aldermen.

(Signed) J. C. DOBBIN.

From extract by J. O. Milton, as't to comm'dt, as't navy yard,
280 Memphis.

U. S. NAVY YARD, *Memphis, Octo.* 28, '54.

GENTLEMEN: Having been directed by the Secretary of the Navy to suspend the sale of the public property advertised to take place at the navy yard on the 1st proximo, provided the city authorities will allow a safe place in the yard for the preservation of such property, and in the mean time surrender the navy yard and its appurtenances to the city unconditionally, I therefore desire the action thus required on the part of the city authorities be had and communicated without delay. Herein enclosed is a copy of the telegraphic instructions received this morning in reference to this matter.

Very respectfully, your ob't serv't,

CHA'S J. PLATT, *Com'd'r.*

To hon'l mayor & aldermen of the city of Memphis.

Thereupon Alderman Patrick, being seconded, offered the following preamble and resolution, which was approved by the board:

Whereas the Secretary of the Navy has, by telegraph, advised the mayor of the city of the suspension of the sale on the 1st proximo of the movable property of the Memphis navy yard, and has also, through Commandant Platt, in charge of said yard, directed the unconditional sur-

render to the city authorities, as early as practicable, the Memphis navy yard and appurtenances as donated by Congress at the last session to the city of Memphis, on condition that safe storage room be granted
281 for the keeping of the public property on hand until otherwise disposed of—

Resolved, That a committee of three, consisting of the mayor and two members of the board be, and are hereby, authorized to receive from the proper agent of the General Government at this place for the use of the city, all the grounds and appurtenances thereto belonging, known as the Memphis navy yard, as dedicated by an act of Congress passed on the day of , 1854, donating the same to the city of Memphis.

Resolved, That the mayor be authorized to employ suitable persons or police to take care of the navy-yard ground and appurtenances for the city until otherwise ordered by the board, and that he make all other arrangements deemed necessary with the agents of the Government in the yard for the safety of the property and the preservation of the interests of the city.

When Alderman Douglass appeared and took his seat at the board as chairman, and, after being advised of the proceedings of the board in relation to the reception of the navy yard and appurtenances, appointed Messrs. Milton and Hughes the committee to co-operate with his honor the mayor in said reception.

Book 7, pages 514 & 515.

CITY HALL, *Memphis, Nov. 7th*, 1854.

At a meeting of the board of mayor and aldermen of the city of Memphis on Tuesday, Nov. 7th, 1854—

Present, his honor the mayor, Messrs. Douglas, chairman, Jenkins, Neal, Hughes, Patrick, Milton, Curtis, and Hopkins, aldermen—

The chairman called the board to order, & had the minutes
282 of the proceedings of the board on the 23 & 30th October, 1854, read, and thereupon they were adopted by the board.

The committee appointed by the board to receive the Memphis navy yard from the United States, through their agents in charge, Commandant Charles T. Platt, submitted the following as their report, which was, on motion, ordered to be received, adopted, and spread upon the records, to wit:

Report.

To the hon'l mayor & aldermen of the city of Memphis.

SIRS: I am directed by the Hon'l' J. C. Dobbins, Secretary of the Navy, to surrender in person to the mayor and aldermen of the city of Memphis, this U. S. navy yard and its appurtenances, in accordance with the 3rd section of an act of Congress, approved August 5th, 1854, making appropriations for the naval service for the fiscal year ending June 30th, 1855, in the following words, to wit:

SECTION 3d. *And be it further enacted*, That all the grounds and appurtenances thereunto belonging, known as the Memphis navy yard, in Shelby County, Tennessee, be, and the same is hereby, ceded to the mayor and aldermen of the city of Memphis for the use and benefit of the said city, and that the Secretary of the Navy order the commandant of the said navy yard at Memphis to surrender to the mayor of Memphis said property.

Therefore I, Charles T. Platt, commandant of the said Memphis navy

yard, in the presence of Lieutenant James Higgins, in pursuance
283 with the duties assigned, now surrender unconditionally to the mayor of Memphis the premises described in the act of Congress above cited.

CHARLES T. PLATT,
Commandant Navy Yard.

Witness—
JAMES HIGGINS,
Lt U. S. Navy.

U. S. NAVY YARD, *Memphis, Oct. 3d*, 1854.

We have this day received of Charles T. Platt, commandant of the Memphis navy yard, and appurtenances, in conformity of an act of Congress passed August 5th, 1854.

(Signed) A. B. TAYLOR, *Mayor.*
W. E. MILTON,
DANIEL HUGHES,
Committee.

Witness:
JAMES HIGGINS,
Lieutenant U. S. Navy.
Book 7, page 518.

STATE OF TENNESSEE,
Shelby County, City of Memphis:

This is to certify that the above and foregoing is a true and perfect extract, copied from the recorded and adopted minutes of the proceedings of the board of mayor and aldermen of the city of Memphis.

In testimony whereof I, Lewis R. Richards, city register and keeper of the records and corporate seal of said city, have hereunto set
284 my hand and affixed said seal, this March 4th, A. D. 1867.

L. R. RICHARDS,
City Register.

CITY HALL, *Memphis Sept. 12th*, 1854.

At an adjourned meeting of the board of mayor and aldermen of the city of Memphis, on Tuesday, Sep't 12th, 1854—

Present, his honor the mayor, Messrs. Chairman Douglass, Milton, Patrick, Jenkins, Morgan, Smithwick, Street, Hopkins, Neal, Curtis, & Saffarans, aldermen.

Whereupon Alderman Douglass, being seconded, offered the following preamble & resolution, to wit:

Whereas, by an act passed by the Congress of the United States, and approved by the President, an absolute cession of the grounds known as the navy yard at Memphis, Tennessee, with the appurtenances thereto belonging, was made to the city of Memphis, therefore—

Resolved, That we, the board of mayor and aldermen of the city of Memphis, in council assembled, accept the grounds known as the navy yard at Memphis, with the appurtenances thereto belonging, as ceded by the Congress of the United States, and that the mayor transmit a copy of these resolutions to the Secretary of the Navy, at Wash-
285 ington City, notifying him of said acceptance.

To which preamble and resolution, Alderman Hopkins proposed as an amendment, that the city give a pledge not to sell the property ceded, or make any disposition thereof, until after the next meeting of Congress, with the understanding that if Congress can be induced,

within a reasonable period, to resuscitate and successfully carry out on a permanent basis, the original design to build up at this point a reputable naval establishment, for constructing in the true sense of the term, Government vessels, &c., the city will re-convey said property to the United States for naval or ship-building purposes only; which proposition Alderman Hopkins, after some discussion, withdrew.

When Alderman Patrick offered the following preamble and resolution, to wit:

Whereas, the board of mayor and aldermen of the city of Memphis view with deep regret what we conceive to have been hasty legislation in the late act of Congress, ordering the Memphis navy yard and appurtenances to the city of Memphis, thereby depriving the citizens of the great valley of the Mississippi of a national work, whose claim to said work they deem of equal importance to any similar work in the eastern cities, and that justice to the citizens of the great valley of the Mississippi demand its continuance; therefore—

Resolved, That the board of mayor and aldermen of the city of Memphis, believing that [may] Congress at its next session can be in-
286 duced to reconsider their act of cession in the act of receiving the said yard, disclaiming the design of appropriating it to our own use, and provided Congress shall, in justice to the South and West, desire to re-install it and carry out the original plan for the establishment and keeping up of the Memphis navy yard, and will re-convey said yard to the General Government.

Which preamble and resolution Mr. Patrick consented, at the solicitation of the chairman, *consented* to withdraw.

When Alderman Douglass' preamble and resolution were taken up and passed.

The yeas and nays being called for, stood as follows, viz: Yeas, Messrs. Patrick, Neal, Milton, Jenkins, Saffarans, Curtis, Smithwick, Douglass—8. Nays, Street, Hopkins, and Morgan—3.

When Alderman Neal moved an adjournment, which he, however, withdrew, in order to have the preamble and resolution just offered by Mr. Patrick, but by him withdrawn, which Alderman Street, being seconded, asked leave to offer as his own measure, which the board agreed to; and, after some discussion pro and con, the question was called for and resulted as follows, to wit:

Nays, Messrs. Neal, Milton, Jenkins, Saffarans, Smithwick, Douglass—6. Yeas, Messrs. Patrick, Street, Hopkins, Curtis, Morgan—5.

So Mr. Patrick's resolution, &c., was lost.

Record book 7, p. 491, 492.

287 STATE OF TENNESSEE,
Shelby County City of Memphis:

This is to certify that the foregoing is a true and perfect extract, copied from the recorded and adopted minutes of the proceedings of the board of mayor and aldermen of the city of Memphis aforesaid.

In testimony whereof I, Lewis R. Richards, city register and keeper of the records and corporate seal of said city, have hereunto set my hand and affixed said seal, this M'ch 4th, A. D. 1867.

L. R. RICHARDS,
City Register.

288 DISTRICT OF COLUMBIA,
Washington County:

On this twenty-eight' day of February, in the year 1868, before me, a

notary public for said county, personally appeared Jno. W. Hogg, who, being duly sworn, says that the annexed manuscript papers, carefully copied by him from the Executive and Senate documents printed by Congress, to which reference is in each particular case made, and that, according to the best of his knowledge and belief, they are truly copied.

JNO. W. HOGG.

JOHN P. McELDERRY.

Sworn and subscribed before me.

N. CALLAN,
Notary Public.

DISTRICT OF COLUMBIA,
Washington County:

On this twenty-eight' day of February, A. D, 1868, before a notary public for said county, personally appeared John P. McElderry, who, being duly sworn, states that he collated with the said Jno. W. Hogg, who made the preceding affidavit, the annexed manuscript papers; and that, according to the best of his knowledge and belief, these are true copies, word for word, from the printed documents to which reference is in each particular case made.

JNO. P. McELDERRY.

Sworn and subscribed before me.

N. CALLAN,
Notary Public.

289 [Executive documents, 2nd session 28th Congress, vol. 1st, No. 2, page 634.]

Report of the officers appointed to select a site for the navy yard at Memphis, Tennessee.

MEMPHIS, *Sept. 16th*, 1844.

SIR: We have the honor to report the progress made in compliance with your instructions of the 23 July, and the 7th of August last. The distinct points to which our attention was directed will each be noticed in the order they appear in your letter of the 7th ultimo.

Unexpected difficulties have occurred in procuring a title. It has been necessary to compromise adverse interests, and reconcile conflicting claims. This has been accomplished by the mayor and alderman, and their proceedings appeared at a public meeting of the citizens.

A deed is transmitted herewith, such as will be executed to the Gover'ment, if approved by the President, to the entire site selected for a navy yard and depot. An abstract of title accompanies it, showing in what manner the rights to the different lots embraced in it have been, or are to be, obtained by the authorities of Memphis. A plan is also annexed, in which those lots to which the titles are not yet complete, are marked by shading. Civic jurisdiction is ceded by the deed; State jurisdiction cannot be obtained before the meeting of the legislature in October, 1845. We addressed a letter to the Governor of the State on the subject on the 30th ultimo, but no answer has been received,
290 and we are informed he is too unwell at present to attend to business. Should he send his opinion, as asked, it will be transmitted to Navy Department.

1. *Title.*—Copy of deed and abstract of title are forwarded herewith.

2d. *Right of way.*—A right to the use of the public highways is secured by the deed.

With regard to the right of way for a canal from Wolf River, the cities authorities would prefer cutting this canal for the benefit of the city, and supplying the navy yard with the water-power it may require, according to their proposition made to the Navy Department, Nov. 9, 1843. Should this proposition not be acceptable to the Gover'ment, they are ready to cede the right of way, and would be glad to make an arrangement by which the surplus water of the canal could be had for the use of the city at a fair remuneration. A recent examination shows that the fall of water by this canal was greatly over'ated in the report of Colonel Morrison, transmitted to the Department May 4th, 1843. The fall is now *is now* ascertained by the same engineer to be about eighteen feet, and the cost of construction estimated at above $100,000.

3. *Jurisdiction.*—The city jurisdiction is ceded by the deed of conveyance. A cession of State jurisdiction cannot be had until the meeting of the State legislature, in October, 1845.

4. *Buildings.*—The number and dimensions of the various buildings, with their respective situations, is ex'ibited on the plan of the yard, which is presented herewith. We recommend that the foundation
291 walls be of stone, based on platforms of timber, or piles, as the superintending architect may deem most advisable. The superstructures to be of brick; the roofs of slate or metal. The dwellings to be two stories high, with piazzas and kitchen attached, and a cellar under the main building. The outside of the houses to be plastered or covered with cement; a cistern for rain water in each yard.

5. *Building-slips with covers.*—The number of building-slips with covers, marked on the plan is two; both on the south side of Wolf River.

6. *Building-slips without covers.*—Four slips without covers are marked on the north side of Wolf; but it will be seen by the peculiar formation and slope of the river bank that, in case of emergency, more than that number of vessels might be constructed at the same time; the whole being an inclined plane, on which ways may be laid, leaving only interval enough for working.

7. *Wharves.*—Permanent wharves, as usually constructed, would be unsuitable, and exceedingly difficult to build with security. We would recommend floating wharves of about 120 feet in length, and a proportionate width and depth, which could always interposed between the slips and the slope of the levee.

8. *Enclosure.*—A brick wall, with stone foundation, with the height and thickness of that which enclosed the Pensacola yard, would be suitable for this.

9. *Front on water-line.*—The most permanent mode of constructing the front or water- will be the following: First, there should be a row of round piles driven along the line of low-water mark. These should
292 be close together, and of a length sufficient to reach firm bottom; within this line of round piles, parallel to the first, 2 feet from centre to centre, in the row, and the centre of the row, 2 feet from the centre of the outside piles; a line of sheet piling should then be driven 1 foot within the round piles, and extending around the water front; the piles are then to be cut off at the lowest stage of the river, and the space between them filled with strong concrete, carefully rammed; the surface of the earth is then to be graded from the sheet piling back to the line of high water, making it 18 inches below the top of the sheet-piling, and falling back with the slope of the levee. This being done, a bed of concrete, 12 inches thick, is to be spread over the whole surface, and upon that is to be laid a course of stone flagging from 6 to 8 inches

thick. The piles around the front will protect the back from washing away, and the concrete will render the pavement firm and substantial, and prevent the earth from being washed away beneath it. This being a work of the very highest importance, on which the safety of the whole yard may at some day depend, we strongly recommend that the superintendance of it be intrusted to none but an engineer of known abilities and fidelity.

10. *Classification of works.*—First class works: Securing the water-line of the yard on the south side of Wolf River, grading, securing the bluff by a parapet wall and glacis, and filling up the site, erecting
293 buildings marked on the plan A, B, C, D, E, F, G, I, K, L, M, N, O, P. Second class: Erecting wall and buildings, marked R, T, W, X, Y, c, k, l, l, m, J, H, E. Third class: Buildings, S, U, U, V, Z, Z, a, b, e, e, e, d, f, g, h, i, j, securing the fronts, grading and filling up that part of the yard lying north of Wolf River, building bridge, and erecting buildings, n, o, p, q, r, r, r, s.

11. *Graduation of the yard.*—Sewers will be unnecessary, except under the pieces marked l, l. The yard to be graded so that the surface-drains will carry the water to the Wolf or Mississippi Rivers.

12. *Establishment of uniform height.*—Three feet on the front line of the levee, above the highest water known here, will be amply sufficient to protect the yard from overflow. From this line it should rise to the rear sufficiently for the rain water to run off. The number of stories for each building is marked on the plan.

We have the honor to be, very respectfully, your obedient servants,

L. ROSSEAU, *Captain.*
H. A. ADAMS, *Commander.*
S. JOHNSTON, *Lieutenant.*
W'M P. S. SANGER, *Engineer.*

Hon. JOHN Y. MASON,
Secretary of the Navy, Washington.

Extract from annual report of J. Y. Mason, Secretary of the Navy, to the President, Nov. 25th, 1844.

[Executive doc. No. 2, 2d session 28 Cong., vol. 1, page 517.]

294 In execution of the act of the 15th June last, to establish a navy yard at or adjacent to the city of Memphis, a bo'rd of officers were organized and ordered to repair to that city, accompanied by Mr. Sanger, the engineer of the Bureau of Yards & Docks. Captain Rousseau, Commander Adams, and Lieutenant Johnston, were ordered on this duty. They made the selection, and reported the results of their examinations, with a draught and diagram, and with the evidences of the of title as far as made. The selection is appproved, and believed to be highly advantageous; but the difficulties, or rather delays, unavoidably encountered in obtaining a perfect title to the site, have suspended the organization of the establishment, and the commencement of active operations. Estimates of additional appropriations for this work are presented. * * * * . The estimates from the Bureau of Yards & Docks are made with a view of prosecuting with efficiency the dock yard at Memphis, with its appendages; the works at Pensacola, &c.

* * * * * * *

Extract from the report of L. Warrington, Chief of the Bureau of Yards & Docks, to the Secretary of the Navy, dated Nov. 19, 1844.

[Ex. doc. *doc.* No. 2, 2d session 28th Congress, vol 1, page 537.]

For the navy yard at Memphis, the sum of $487,000 is estimated as a commencement of improvements, to be expended in the embankments, graduation, excavation, and walling, to secure the river fronts, (of which there are several, the Wolf River running through the site, and rendering much of that kind of work expedient;) for six dwelling-houses,
295 and for the foundation of a safe work. A plan of this yard has been made with great care, and accompanies this report. On it the boundaries are clearly laid down, and its face and general character shown; and an examination, even cursorily, will show that great labor, involving considerable expense, must be incurred to render it advantageous. Its natural situation, with the resources at hand, by means of its extensive intercourse with nearly all the producing States, will then enable it speedily to obtain a degree of usefulness commensurate with the outlay, and gratifying to its projectors. In a short time it will be necessary to give an organization to this yard by the appointment of officers, both naval and civil, and the preparation for the employment of mechanics, laborers, &c., &c.

Extract from annual report of the Secretary of the Navy, George Bancroft, to the President of the United States, dated Dec. 1, 1845.

[Senate doc's, 1st session 29th Cong., vol 1, page 648.]

Memphis, on the contrary, being in the heart of the country, on an ocean river, yet a thousand miles from the sea, is inappropriate for the repairs of ships-of-war; but in building steamships, it may compete with Boston, New York, and Philadelphia—with St. Louis, Cincinnati, and Pittsburg. It lies, moreover, just below the great hemp-growing region, and is recommended by its position for the establishment of the manufacture of cordage. A rope-walk, with the latest improvements, is therefore proposed, so that the West may not only produce but manufacture the hemp used for the American Navy.
296 I have disapproved some of the details of the plan proposed for the navy yard at Memphis, because it was framed on a scale of extravagant expenditure, which, for the mere work of preparation, would have consumed many years, and would have cost, by estimate, at least two millions of dollars, and which contemplates the residence of many officers, civil & naval, who, in any event, would be useless. I recommend that Congress confine the use of the moneys it may appropriate, first to the immediate construction of a rope-walk, and next to simple arrangements for building and equip'ing steamers. To introduce at the West the manufacture of American hemp for the Navy will prove a national benefit.

Extract from the annual report of the Chief of the Bureau of Yards & Docks, L. Warrington, to the Secretary of the Navy, dated Nov. 22, 1845.

[Doc., 1st sess. 29th Congress, vol. 1, page 665.]

A commencement of the works at the Memphis navy yard has been made by surveying, laying off, and examining the various portions which

must first be taken in hand. An estimate of the expense of the works, including many others, to be carried on as time and means may allow, has been made by the engineer, attached to the yard. Upon a selection of such as were of more immediate necessity, an advertisement was issued calling upon persons for offers to perform the work. Specifications for the government of the bidders were directed to be given by the engineer to all such as called for them, and under the adver-
297 tisement, with the information given, many proposals were received. At the appointed time these were opened, in the presence of three gentlemen, who had been requested to attend, and after a close and most careful examination, the work was assigned to the lowest bidder for cash, specific item or job of work. One or two have, it is understood, declined their allotted portion; but contracts will be forwarded to the others for signature, and it is expected that in a short time the successful bidders will be ready to commence operations. The whole amount of work thus allotted is about $150,000, which is less than the sum now at the disposal of the Department for this desirable and important work. The remainder, however, and the further sum now asked for, may be advantageously disposed of, without doubt, in the course of the next fiscal year. A little delay, to ascertain how substantially the improvements, which have just been provided for, are to be constructed, and how much of them may be performed in a given time, will add much to a proper knowledge of the manner in which further progress may be made, and what it may be most desirable to take up next in order. As this is an entirely new establishment, it is contemplated to divide the whole into a number of classes, 1st, 2d, 3d, &c., according as the wants of each may be the most urgent.

Extract from the an'ual report of the Secretary of the Navy, J. Y. Mason, to the President, Dec. 5, 1846.

[Ex. doc. No. 4, 2d session 29th Congress, vol. 1, page 384.]

By the act of Congress, of August 10, 1846, the appropriations for the navy yard at Memphis, for the current year, are to be con-
298 fined in the expenditure, to the construction of a rope-walk. Proper measures have been adopted to conform to this restriction. The estimates are prepared with this view. If it shall be deemed advisable to make this yard a place of construction—and in view of its great advantages in the building and outfit of steamers, I may hope that the original purpose of the establishment will not be abandoned—it will be advisable not to continue the restriction on the appropriation for the next year.

Extract from the an'ual report of the Chief of the Bureau of Yards & Docks, Joseph Smith, to the Secretary of the Navy, Nov. 14, 1846.

[Ex. doc. No. 4, 2nd cession 29th Congress, vol. 1, page 399.]

The law of the last session of Congress, which confined the expenditure of the appropriations made for the Memphis navy yard to the construction of a rope-walk, caused some delay to the work, and embarressment to the bureau. Contracts had been entered into for the supply, materials, and performance of labor at the yard to a considerable extent, and a portion of the former had already been delivered. It became necessary to ascertain what portion of the contracts, which had been

made, could be appropriated to the rope-walk, and made available in its construction. The necessary inquiries were accordingly made, which resulted in satisfying the bureau that all the then existing contracts, with but one exception, could be diverted from the objects for which they were originally intended, and be made available for the rope-walk, &c. The necessary orders were issued accordingly, and all the materials, which had been contracted for, so far as might be required, have been applied to its construction. If this building is to be completed and put into operation, and further improvements of a permanent character be contemplated, it will be necessary to erect workshops, a store-house, (one wing only at present,) a saw-mill, officers' , and a house for the commandant, estimates for which have been prepared, and are herewith submitted.

Extract from the an'ual report of the Chief of the Bureau of Yards & Docks, Joseph Smith, to the Secretary of the Navy, Oct. 25th, 1847.

[Ex. doc. No. 8, 1st sess. 30th Congress, vol. 2, page 1105.]

AT MEMPHIS.—There has been no works completed at this yard during the past year. The embankment, excavating, and grading the bluff, vertical wall, rope-walk, piling to secure the river front, saw-mill, building for officers, commandant's house, store-house, (one wing,) blacksmiths' shop, and joiners' shop have all been commenced, and are now in progress. The opperations of this yard have been delayed, and much annoyance experienced from the repeated failure of contractors to comply with their engagements. Some have refused to enter into contracts after their offers were accepted; others have abandoned the works after partially executing their engagements; and others have entered into contracts without ability to fulfil them. Contracts have been made for the delivery of materials required for the above buildings, and it is believed that the present contractors will supply the articles in such mauner as to cause no further delay.

The amount appropriated for the above objects per act of 3d March, 1847, was $102,205. There has been expended from the 1st October, 1846, to 30th Sept., 1847, $56,110 66.

* * * * * * * *

The various objects of improvements and repairs, for which estimates are herewith submitted for the fiscal year ending 30th June, 1849, are—

* * * * * * * *

AT MEMPHIS.—To make the yard available for the purpose intended, the amount asked for is necessary.

The rope-walk will be ready to receive the spinning and other machinery in the course of the next season. An additional appropriation is required to complete the commandant's house, owing to the great advance in the price of materials since the original estimates were made. Another wing to the store-house is required, and an estimate for it is included, the tarring house will be indispensably necessary for the successful operation of the rope-walk. A large amount of property is now collected at this yard, and for its proper protection a permanent inclosure is absolutely necessary. The engine and machinery for the saw-mill will be required during the next year; the house is in progress, and this building with its appendages is much needed. There being but few mills in the neighborhood, the works are often delayed for the want of sawed timber. To place this yard in a condition to afford the facilities required at navy yards, a building-slip is necessary; an appropriation for the con-

struction of one is therefore asked. The timber-shed and boat-shop asked for are also considered necessary. A large portion of this yard is, at a level, much below the ordinary range of spring freshets, and an appropriation for the embankment is therefore of the first importance. The excavation for ditches, foundations, &c., is deemed necessary for the comfort and health of the workman about the yard. The avenues and roads in the yard, being upon newly made ground, are necessarily much cut up, and to make them passable require grading and graveling. The item for machinery for the rope-walk is indispensably necessary, and forms the largest portion of the whole estimate for the improvement of the yard.

Extract from the an'ual report of the Secretary of the Navy, Jno. Y. Mason, to the President of the United States, Dec. 4, 1848.

[Ex. doc. No. 1, 2nd session, 30th Congress, vol. 1, page 617.]

Proposals for furnishing machinery for the rope-walk at the Memphis navy yard have been by advertisement, and as soon as it can be manufactured and delivered, that important establishment will be put in operation. This place for the delivery of hemp for the use of the Navy will be far more convenient to the hemp growers generally than that at which cordage is now manufactured, and the facility of access will justify the farmers in selling their produce directly to the Government, without the intervention of agencies, or the expense and
302 loss of more distant transportation & frequent transhipment.

Extract from the an'ual report of the Chief of the Bureau of Yards & Docks, Jos. Smith, to the Secretary of the Navy, Nov. 4, 1848.

[Ex. doc. No. 1, 2nd sess., 30th Cong., vol. 1, page 748.]

AT MEMPHIS.—The rope-walk is nearly completed, and will soon be ready to receive the machinery, arrangements for the purchase of which will soon be made. The vertical wall is completed, with the exception of coping. A portion of the foundation of the saw-mill is finished, and the work is in progress; a favorable contract has been made for the steam-engine and machinery for this building. The main body of the building for officers has been erected, and is now being enclosed. The house for the commandant has been so far completed as to admit of occupation. Some further work is to be done before the building will be entirely finished. Materials for the store-house have been purchased; but the work of construction has not been commenced. The foundation of the blacksmiths' shop is in progress, and a part of the materials are on hand. All the piles for the foundation of the joiners' shop have been driven, and the walls are in progress. A large amount of material has been purchased for the wall to enclose the yard, and the work will be soon commenced. The foundation of the tarring-house is commenced, and a quantity of materials are delivered. The operations of this yard have been much delayed in consequence of the failure of the con-
303 tractors to comply with their engagements. Scarcely a single contract has been made for materials or labor which has been fulfilled in good faith. The amount, expended since the 1st October, 1847, for improvements and repairs, is $206,848 14. The appropriation asked for the fiscal year ending 30th June, 1850, it is proposed, shall be

expended in the completion of the saw-mill, store-house, building for officers, blacksmiths' shop, joiners' shop, and wall to enclose the yard—for the purchase of a fire-engine, excavation, and embankment, piling on the river bank, guard-house, and enclosure to commandant's house, pavements, drains, gutters, &c., and for repairs of all kinds. The amount for the completion of the saw-mill, store-house, and other buildings enumerated is very necessary, as the buildings are all in an unfinished state, and cannot be made useful without further appropriations. A fire-engine is much wanted, as the risk continues to increase with the accumulation of materials, and it is impossible to foresee the extent of damage liable at any moment to occur, should fire be, by accident or design, communicated to the large amount of combustible material already collected in the yard. The sum asked for excavation and embankment, is necessary for the actual security and preservation of the works already commenced or authorized. The amount required for building the river-bank, is necessary for the protection of the
304 yard, and to prevent the encroachment of the river. The guard-house and enclosure to the commandant's house, pavements, drains, gutters, &c., and repairs of all kinds are all important objects, and an appropriation for them is strongly urged. The sum required for the contemplated improvements and repairs for the fiscal year ending 30th June, 1850, is $136,554.

Extract from the an'ual report of the Secretary of the Navy, W'm Ballard Preston, to the President, Dec. 1, 1849.

[Ex. doc. No. 5, 1st session 31st Cong., vol. 3d, part 1, page 435.]

The buildings, in connection with the rope-walk at Memphis, will shortly be completed. A steam-engine and all other machinery required for the manufacture of cordage have been contracted for. The machinery is already completed; the steam-engine is in a state of forwardness. The rope-walk and machinery will be ready to commence operations for the manufacture of cordage by the end of the month of June, 1850.

The plan proposed will greatly promote the objects intended by Congress, as well as the interest and convenience of those engaged in the preparation of hemp. The expensive manufacture of cordage at Memphis will render it necessary that considerable quantities of hemp should be delivered at that point. It can be reached with facility and cheapness by inspection and delivery.

305 *Extract from the report of the Chief of the Bureau of Yards & Docks, Jos. Smith, to the Secretary of the Navy, Oct. 17th,* 1849.

[Ex. doc. No. 5, 1st sess. 31st Cong., vol. 3, part 1, page 562.]

MEMPHIS.—Since the annual report the vertical wall has been completed. The rope-walk is now ready to receive the machinery. The work remaining to be done is the completion of the iron stairs outside the building, the making of cellar-doors, and the extension of the boiler-house.

On the 25th January, 1849, a contract was made with Mr. E. L. Norfolk, of Salem, Massachusetts, for the steam-engine and all other machinery required for the manufacture of cordage. This work was all to be completed, set up, and put in successful operation at the rope-walk in Memphis within eighteen months from the date of the contract.

Mr. Norfolk has made very rapid progress with his work, and those portions which are completed are finished in a workmanlike manner, and give evidence of his skill and ability to execute his contract to the satisfaction of the Department. On the 1st of October most of this machinery was completed, except the steam-engine, which was in an advanced state of forwardness, and the contractor is very sanguine of being able to ship all the work for Memphis by the 15th of December next.

306 The superintendent of the rope-walk has been sent to Memphis to give the necessary directions for the preparation of the foundation for the machinery, and it is confidently believed that the work will be put in operation within the time specified in the contract.

About two-thirds of the first story of the building for a saw mill are completed, and the principal part of the materials for the remainder has been delivered. The work upon this object has been delayed by the long continued high water, and for the want of embankment about the building. The steam-engine and machinery for the mill have been procured, and are ready for setting up when the building shall be prepared to receive it. The building for officers is nearly completed, there remaining but the plastering and painting to be done.

The commandant's house is completed, except the pavement in the cellar, and making cellar and closet doors.

The piling for the foundation of one wing of the store-house is completed—about four hundred perches of masonry have been laid, and the meterials for the building are nearly all received.

For the blacksmiths' shop, the foundation piles are all driven, and the foundation nearly completed to the brick work. The materials for this building are nearly all procured. The foundation for the joiners' shop has been finished, and about one-half of the first story completed. Most of the materials for the remaining work are on hand.

The wall to enclose the yard is completed on the easterly side, with the exception of a few thousand bricks, which will connect it with

307 the guard and muster houses. On the north side one hundred and fifty feet have been built, and on the south line four hundred feet in length of heavy stone wall have been erected, to serve as a foundation for the brick wall and to support the embankment in the yard. The walls of the tarring house have been completed, and the roof raised.

There has been expended from the 1st October, 1848, to 30th Sept'r, 1849, sum of $139,166 85.

Estimates, with plans, are submitted for the fiscal year ending 30th June, 1851, for excavation and embankment; for the completing the rope-walk an' boiler-house, saw-mill, one wing of store-house, blacksmiths' shop, joiners' shop, tarring-house, officers' , commandant's house, machanery for saw-mill and for constructing a hemp-house, house for fire-engine, cisterns, pavements, drains, & ditches, and for repairs of all kinds. The estimate for excavation and embankment is very necessary, as a large part of the yard is inundated during the high stages of the water. The buildings above enumerated, for the completion of which additional appropriations are asked, have cost more than the original estimates, owing to an unexpected rise in the price of materials, and the delays and inter'uptions, which have been caused by the failure of contractors to comply with their engagements. It is believed that the estimates now submitted will be sufficient to complete these works during the next year. The hemp-house is a necessary appendage to the rope-walk, and when completed, will render that establishment complete. The

308 engine-house is required for the protection of the fire-engine authorized by the act of 3d March, 1849. The cisterns are designed to furnish drinking-water for the workmen, the well and river water being deemed very unwholesome. The amount asked for pavements, drains, and ditches is much wanted; and for repairs of existing improvements a small sum will be required.

Extract from the an'ual report of the Secretary of the Navy, William A. Graham, to the President, dated 30th November, 1850.

[Ex. doc. No. 1, 2nd sess. 31st Cong., vol. 1st, page 197.]

The yard at Memphis is being immediately prepared for the manufacture of cordage and other supplies of hempen materials for naval uses, and its operations may be enlarged with the necessities of the service. I have regretted to learn that there has been some loss in the expenditure there in consequence of the difficulty of obtaining a firm foundation for the buildings, and it is in contemplation to have a survey of the yard, by a board of engineers constituted for that purpose, in accordance with the recom'endation of the Chief of the Bureau of Yards & Docks, to provide against like casualties for the future.

From the an'ual report of the Chief of the Bureau of Yards & Docks, Jos. Smith, to the Secretary of the Navy, dated October 12th, 1850.

[Ex. doc. No. 1, 2d sess. 31st Cong., vol. 1st, page 318.]

309 MEMPHIS.—The foundation of this yard is of doubtful solidity and stability. The effect of the strong currents and overflows upon it cannot be predicted; and the most effectual means to guard against injury from these causes have not been decided upon, and the subject is of great consideration and importance. A large amount will be required to defray the expense of filling up the space allotted for the yard to a proper grade, and I recommend that a board of engineers be detailed to make a thorough examination of the premises, and report upon the nature of the bottom, the effects of the river, and devise some plan for protecting the river front, and guarding against future injury to the yard from the action of the current, &c.

Since the 1st October, 1849, the work upon the embankment has been in progress, and a large space has been filled in around the buildings which have been commenced. The rope-walk building is nearly completed, and the contractor is now engaged in putting up the machinery, all of which is in the building. During the past season the saw-mill building has been much injured by the floods in the river, and it will be necessary to reconstruct a part of it. The joiners' shop is nearly completed, and is reported to be in good condition and of the best workmanship. The tarring-house is nearly completed and ready for use. A small amount has been expended for pavements, drains, and
310 ditches; and the total amount expended for all improvements, from the 1st October, 1849, to the 30th June, 1850, is $35,122 63.

Estimates are submitted for the fiscal year ending 30th June, 1852, for embankment, rope-walk, saw-mill, piling river front, paving, drains, gutters, &c., cisterns, for rope-walk, lime-house, and for repairs of all kinds, amounting to $116,600.

The amount for embankment is necessary for the protection and preservation of the buildings in progress. To complete the rope-walk and

saw-mill, a small additional amount is required. The foundation of the building for officers is reported as defective and below the level of the yard. These buildings have been more expensive than was originally anticipated, owing, in some measure, to the insecurity of the foundations and the difficulty in obtaining suitable material and workmen. The rope-walk is now very nearly completed, and it is expected that the machinery will be put in operation during the present year. The amount asked for securing the river front is of the utmost importance, as a large portion of the low ground is overflowed at high stages of the river, and liable to injury from the rapid current. Pavements, drains, and gutters, for carrying off the water, are all much wanted. The cisterns for the rope-walk are for supplying the steam-boilers with pure and clear water, and are highly necessary. A house for the storage of lime is much needed, there being no suitable place in the yard for that purpose.
311 The amount asked for repairs of all kinds will be required for the proper preservation of the buildings in the yard.

[32d Congress, 1st session. Senate. Rep. com. No. 215.]

In the Senate of the United States.

MAY 6, 1852.—Ordered to be printed.

Mr. Given made the following report:

The Committee on Naval Affairs, to whom was referred the memorial of the legislature of the State of Tennessee, asking for the completion of the navy yard at Memphis, according to its original design, having had the same under consideration, report—

That, by the act of the 15th of June, 1844, Congress authorized the selection and purchase of a site for a navy yard and depot at Memphis, the language of said act being as follows:

That the President of the United States be, and is hereby, authorized to select and purchase a site for a navy yard and depot at the city of Memphis, and to erect such buildings and make such improvements thereon as may be necessary for the construction and repair, and for the accommodation and supply of vessels of war of *of* the United States; and that the President is authorized and empowered to purchase
312 any water rights which may be necessary to propel the machinery appertaining to said navy yard, or which may useful in the operations of said navy yard; and that he be further empowered to receive any donations of lands, water rights, or rights of way, which the authorities of the city of Memphis, or any other body-corporate, or any person or persons, may deem proper to make or grant to the Government of the United States; and that the sum of one hundred thousand dollars be appropriated, &c.

In pursuance of this law a site was selected within the city of Memphis, by a board of officers duly appointed for that purpose. A number of private lots and a large portion of the public landing and several streets and alleys were included within the limits of the site thus selected for the navy yard and depot. These private lots were sold by the owners to the corporation of Memphis at a price believed to have been very inadequate; and the said corporation, with the consent and approval of the citizens, in public meeting assembled, conveyed the whole property to the United States without demanding anything more than the cost of the private property which had been purchased as aforesaid. The *notice* for this liberality on the part of the citizens and pub-

lic authorities of Memphis, was to secure to that *that* city the ad-
313 vantages of such a naval establishment as had been provided for in the law above quoted. For the same reason the legislature of the State surrendered jurisdiction over the premises to the United States. It is now insisted by the State in its memorial, as well as by the citizens and public authorities of Memphis, that the faith of the United States is engaged to build up an establishment for the construction & repair, and for the accommodation and supply of vessels of war, and that it would be a violation of the public faith to divert the property to a use different from that for which it was surrendered.

The committee are of opinion that in this, as in all other cases of the kind, the public and general interest must prevail, and not the local interests of Memphis, or even of the State of Tennessee. If circumstances have occurred to render it useless and unwise to make a large expenditure of the public money at this point, if such an expenditure would promote no useful object of public policy, the public is under no obligations to throw away its means by pursuing a project which has proved to be impracticable and unwise. If, on the other hand, there be no good reason for a change of the original purpose for which this property was ceded to the United States, such a change would be a just ground of complaint and ought not to be addopted. • Already eight hundred and twenty thousand dollars, including the buildings
314 and machinery of the rope-walk, have been expended upon this yard. Much work has been done and some costly buildings erected, with a view to carry out the original design of the establishment. In the judgement of the committee, after this large expenditure, it would unwise to suspend the work in an unfinished condition, and under the pressure of most important considerations. Do such considerations exist? The committee have not been able to concur in the conclusion that they do.

But the attention of the committee has been turned to the report of Messrs. Ogden, Chase, and Shields, a board of commissioners recently instituted by the Secretary of the Navy for the examination of this yard, in which it is recommended that the establishment be confined to the manufacture of rope and cordage. The grounds upon which this recommendation is made *and* confined chiefly to some general propositions in reference to the inland situation of Memphis. It is boldly asserted in the report of these gentlemen, that Memphis is wholly unfit for a navy yard, because it is distant from the sea and not easy of access, and because there is not sufficient water in the channel and on the bar at the mouth of the Mississippi River. These objections have not the merit of originality. They were urged with great pertinacity, and they certainly existed with all their present force at the time of
315 the selection of Memphis as the site of this establishment. A board of officers and engineers then came to a conclusion different from that which has been announced by the recent board. There is only, therefore, the opinion of one set of officers against that of another, and it is the judgement of the committee that the more recent opinion is not the wiser of the two.

Memphis is well adapted to the construction and equipment of a most important class of ships-of-war. The iron steamer Allegany, a vessel of about eleven hundred tons, was built at Pittsburg, which is on the Ohio River, twelve hundred miles above Memphis. If such a ship could thread the Ohio and Mississippi Rivers for two thousand miles to the sea, it is very plain that vessels of a much larger size could be safely carried from Memphis down. It is further well known that the steam-

ers Ohio and Georgia, of the New York and Chagres mail line, are in the habit of regularly crossing the bar at the mouth of the Mississippi, and ascending to New Orleans. For nearly one-half the year they could ascend to Memphis. These are steamers of the first class, having a tonnage of from 2,500 to 3,000. The committee think it must be admitted that steamers of the largest class can be built at Memphis and safely carried out to the Gulf during the season of high water. This fact, however, in the absence of other considerations, would not
316 be sufficient to justify the location of an important naval establishment at that point. But there are other considerations of great force which must have conduced to the original selection of this site, and which continue to make it as admirably adapted for the purpose to which it has been assigned. The committee will proceed briefly to state their views of the subject.

The importance of the position of Memphis as a naval depot and building yard arises from the fact that it is in the heart of the Mississippi Valley, in the midst of those immense productions from which our Navy must be built, equipped, and provisioned. Iron, coal, & copper, oak, cedar, cypress, pine, an' locust timber, hemp, and every other production for ship-building are to be had here cheaper and in greater abundance than in any other part of the country. Statistical facts are unnecessary; the resources of this vast region are almost infinite. In the judgement of the committee, it would be wise on the part of the Government to prepare by suitable arrangements at Memphis, to avail itself of these inexhaustable resources for the defence of the Gulf of Mexico in time of war. Any number of steam vessels could be safely built at this point, and safely carried to *to* the Gulf. Cannon and small arms, shot, & shells, chains, anchors, and machinery could be manufactured here with as much advantage as at any other navy yard in
317 the United States. Indeed, it cannot be doubted that Memphis has advantages for these objects beyond any other point above or below it on the river, or within the Gulf of Mexico.

It is at the head of uninter'upted navigation of the Mississippi; it is in a temperate and salubrious climate where the yellow fever has never been known. The building of steamboats for the river has already caused the establishment of foundries and machine shops, and opened up the channels for procuring timber, iron, and the other materials of constructions. The committee deem it a sound position that the near' the operation of ship-building can be brought to the materials of which the structures are made, the better and more economical will be the process. If ships could be built in the forest from which their timbers are taken, and could be thence easily and cheaply conducted to the sea, a great saving would be affected by the operation. If this be true, it follows as a necessary consequence that the nearer the point of construction approaches the source of the material, the greater the advantage in point of economy. It is *difficult*, however, with the operation of repairing ships. These, though built at Memphis, need not be carried there again to be repaired. Pensacola is provided with a
318 sectional floating dry-dock, basin, and railway. By means of this important apparatus, at least a dozen vessels of the largest size could be placed on land for repairs at the same time. The repair of *of* vessels requires comparatively few materials, and these may be easily accumulated at Pensacola, where most of the materials of construction would have to be conveyed thither at great expense, either from the Atlantic coast or from the Mississippi Valley. Memphis,

therefore, has much *much* facilties for the construction of ships, while Pensacola has already the means for their repair.

The importance of maintaining naval ascendancy in the Gulf of Mexico cannot be easily magnified or over'ated. The vast commerce of the Mississippi Valley joined to that of the Amazon and Orinoco, the command of the various routes across the isthmus, or through Mexico to the Pacific Ocean, and, by consequence, our communication with Califorina and Oregon, as well as the safety of our commerce with the East, are, in a great measure, dependent upon the supremacy of our Navy in the Gulf of Mexico. This subject has been ably presented in the report of Lieutenant M. F. Maury to the Secretary of War, on the policy of our system of fortifications, (Ex. doc., No. 5, 1st sess. of 32nd Cong., pp. 180 and 181,) from which the following paragraphs are extracted:

319 "In a commercial and military sense, the Gulf of Mexico and the Carib'ean Sea are but an expansion of the Mississippi and Amazon rivers. In this view of the subject, the mouth of the Mississippi is not the Balize, nor that of the Amazon at Para; they are both in the Florida Pass, between Key West and Cuba. For one-half of the year there is a sort of monsoon in the Gulf of Mexico; during this period the winds are *are* from the southeast; at this season, therefore, the winds and currents in the Yucatan Pass, are such as to prevent the passage that way of vessels from the Gulf. Moreover, the island of Jamaica, where the English have a naval station, overlooks the Yucatan Pass. When the northeast wind prevails, the Yucatan Pass is open to sailing vessels; but a few steamers, with Jamaica as the centre of operations, would it to our commerce. When the southeast winds the route of a sailing vessel bound from *from* the Gulf to Jamaica, is not through the straits of Yu'atan; it is through the Florida Pass, by Key West, and then back on the south side of Cuba. Now a maritime enemy seizing upon Key West and the Tortugas, could land a few heavy guns from his ship and make it difficult for us to dislodge him. Here railroads and the telegraph do not reach, and as long as he should hold that position, so long would he control the commercial *mout* of the
320 great Mississippi Valley.

"In that position he would shut up the Gulf, whatever force inferior to his own we might have there. He could prevent reinforcements, sent to relieve it from Boston, New York, and Norfolk, from entering the Gulf; indeed, in a war with England, the Tortugas and Key West being in her possession, it might be more advisable instead of sending from our Atlantic dock-yards a fleet to the Gulf, to send it over to the British Islands and sound the Irish people as to throwing off allegiance.

* * * * * * * *

"In the next maritime war (and in such a war we have nothing to fear from any quarter except one) it is not upon the Atlantic, properly speaking, that the great sea fight is to take place; it is in the Gulf of Mexico or near the English shores.

"Jamaica is an important naval station. It commands one entrance to the Gulf; there Great Britain can assemble her fleet, and in three days have it off the Balize, in a position to strike a ter'ible blow at the commerce of that valley, shutting up the Florida Pass. She could have complete control of the Gulf. Norfolk and New York are inconveniently situated to defend. Some years ago a man-of-war was sent, with
321 dispatches from Norfolk to Pensacola; she was fifty-odd days in making the passage. The means of defence for the Gulf should be within the valley that belongs to it. The resources of this valley are

ample, its means most abundant, and its people are its best and most appropriate defenders. Pensacola should therefore be built up as a naval station, and the depot at Memphis, fostered with care and solicitude. Instead of draining the Treasury for forts, under the system of 1816, these two places should be put in condition for building, equip'ing, and fitting, upon a scale sufficient to secure to us, in war, the naval supremacy, at least, in the Gulf. In a war with England, and with those two places as the centers of operations, it probably would be found desirable to move upon Jamaica and other British Islands in that quarter. New York and the Atlantic dock yards would probably be the centre of other operations; and if Jamaica fall in such a war, it must fall under the guns and before the gallantry of the West; the East will have need and occupation for all its forces in other quarters.

"Memphis is fast rising in importance as a place of construction; private enterprises has already commenced to establish building yards there, and in that teeming region there is no lack of naval and maritime resources. The rope-walk there is of no consequence. We want docks, store-houses, machine shops, and foundries for casting, forging,
322 making and building anchors and cables, ships and engines; and for preparing and keeping in store, out of the excellent materials to be found in that valley, all the arms and munitions of war which would be required for the defence of the Gulf, the capture of Jamaica, or any other British possessions, if Britain be the enemy.

"I have, on former occasions, presented my views at large with regard to the importance of Memphis as a naval depot. These views are before the public, and therefore I deem it unnecessary to repeat them here. We have now turned the corner, and are now going ahead in the peaceful race for the commercial supremicy of the seas. The next trial is to be maritime supremicy of another sort. It is hoped that the day for that contest is far distant; but every people are liable to war; and it is a fact which we cannot blink, that in providing for the contingency our statesmen and warriors must, for many years to come, have an eye to the forces which Great Britain, rather than any other power, can bring against us.

"But let that contest come when it may, it is most likely to be decided in the Gulf of Mexico and its twin basin—the Carib'ean Sea. They are the receptacles of all that the two grandest systems of river basins in the world will have to pour into the lap of commerce. The valley of the Mississippi on one side, and the valley of the Amazon on the other will in time make these two armes of the sea the commercial centre of the world. The mouth of the Amazon, the mouth of the Orinoco,
323 and the mouth of the Magdalena are, commercially speaking, almost as much in the Florida Pass as *in* the mouth of the Mississippi River. Such is the course of the currents, and such the direction of the winds in that part of the world, that a vessel sailing from the mouth of any one of these rivers for Rio de Janeiro, in Brazil, or for India, or for the markets of the Pacific, around Cape Horn, or for Africa, or for Europe, has first to steer to the northward and westward until she reaches the parallel of 25° or 30° north. This brings her off our own shores, and it is impossible for her to pursue any other route so long as the northeast trade winds prevail, or the great equatorial, which feeds the Gulf Stream, continues to flow across the Atlantic. No vessel trading under canvass from the mouth of these rivers to the markets of South America, Europe, Asia, or Africa, can go any other way. They must pass by our doors.

"Therefore, in planning a system of national defence, who can overesti-

mate the importance of the Gulf of Mexico as a nucleus of naval means, the centre of naval operations? That centre is at Key West and Tortugas; hence the great need of strong works there.

"Interest' of the most delicate, valuable, and, to an enemy, of the most attractive kind, are ever now daily springing up and expanding themselves out upon the waters, and about the borders of the Gulf of Mexico and Carib'ean Sea—interests which, if they should be injured or
324 put in needless jeopardy, will create a greater sensation throughout this country than would the landing of a hundred thousand men-at-arms upon ourselves. These interests are maritime; they are American; their defences and protection are naval; they must be watched and guarde' from the Mississippi Valley. Memphis and Pensacola, by nature are, by rights ought to be, and by legislation should be, the centres of operations in the case.

"Panama, Nicaragua, and Tehauntepec have or are about to impose new obligations upon us. We must look to them, and in providing for the common defence, take them into consideration. They are links in the chain which binds the most remote corners of the Republic together; they are the gate between distant parts of the Union, and they must, therefore, in peace guarded and protected in war.

"The Amazonian basin embracing an area more than twice the extent of our great Mississippi Valley, fills too large a space in the world to escape attention from us, when we are in the very act of laying the foundations for a permanant system of national defence.

"With all the climates of India, with unheard of capacities of production, and the most boundless sources of wealth in the field, the forest, and the mine, that valley, so soon as it shall begin to feel the axe and the plough, will pour into our lap a commerce, the value of which is as limitless as are its own vast resources. Nature has placed us
325 the position to command that commerce. The great business of fetching and carrying these must be ours, for coming and for going, the winds are fair for us, and we are the only nation for whose shipping they are so fair.

"That arm of the ocean which severs the continent nearly in twain, to make between the father of waters at the North, and the king of rivers at the South, a receptacle for their commerce, is receiving from the Mississippi Valley alone an amount of produce that astonishes the world, yet the Mississippi Valley is not half peopled up. What, therefore, , this commercial receptacle for the surplus produce of the two grandest systems of river basins on the face of the earth be, when the great Amazonian Valley of double area, with its everlasting summer, and its endless rounds of forrests come to be subdued and brought into cultivation? What the Gulf of Mexico is now, is nothing to what it is to be. It abounds with commercial elements that cannot be comprehended for their magnitude, and in proportion as it becomes the seat of maritime wealth and greatness, so too must it become the centre of naval strength and power. As Columbus lay sick, it was upon the waters of this sea-basin that the angel visited him in a dream, and told him that God had made his name great, and sent him to 'unbar the gates of the ocean.' The key to these gates are at Key West and the Tortugas, Memphis, and Pensacola; nature has placed them among the wonderful resources of the great valley, and to stand as gate-keeper be-
326 fore them is the mission of those naval forces that naturally centre in the Gulf."

Other important considerations irresistably connect themselves with this subject. If it be indispensable to a wise system of public defence

to connect the Navy with the illimitable material resources of the great valley of the Mississippi; it is equally imperative to bring it into contract with the vast population of that teaming region, which is soon destined to be the seat of empire in our country. While the vessels engaged in our European commerce may be expected to furnish men to fill our ships-of-war for the defence of the Atlantic coast; our whalers; those for the defence of California and Oregon; where else can we look for men to defend the Gulf of Mexico, but to the brave and hardy watermen who swarm the western rivers? Six years ago, in one of those memorials which the legislature of Tennessee has repeated' adopted, evincing its deep interest in this subject, this important aspect of the question was presented in the following language:

"Similar public establishments on the banks of the Mississippi and its great tributaries will carry with it similar benefits and facilities to a great and growing community, proverbial for its patriotism, but hitherto almost wholly unaccustomed to any participation in the public disburse-*burse*ments. They would stimulate its interprise by opening new and profitable markets to the labor and the productive energies of the of that community; they would, in no small degree, familiarize the pub-
327 lic eye with the character and the application of the destructive engines of war, and thereby acquaint a remote but devoted people with the power and defensive force of the Government. The hardy waterman of the Mississippi, already more than half a sailor, trained thus in frequent intercourse with the war ship—the child of his own*ed* boasted valley, would imbibe feelings which no recited lesson could inspire; and, with the first invitation of his country, he would eagerly walk her decks, and peril his life in defence of her colors. This brave and patient class of our population already number some twenty thousand; they flourish in a glowing and instructive school, and will in all time to come, if properly nurtured, constituate a standing army of peaceful and unexpensive citizens, at a moment's warning to man our Navy, or, if need be, fill up and recruit our field battalions."

The committee are informed, upon the best authority, that it is now a matter difficulty in the cities of our southern sea-board to procure the sailors necessary for man'ing our commercial vessels. As it is to the commercial marine we must look for the means of manning an effective navy in time of war, and as the isolated and independent character of the Gulf of Mexico must be apparent from the facts already presented, we cannot entirely rely upon the Atlantic and Pacific seas for the men necessary to m*e*ntain our supremacy, in that

The Mississippi Valley offers a ready and sure resource—the only
328 resource for such an emergency; but it is necessary to provide the proper means for placing these immence resources of men and materials within our reach when the occasion shall require them. It is believed that no more economical or efficient means for this purpose can be ad*d*opted than the completion and active operations of a great naval establishment in the centre of the Mississippi Valley. Recent improvements in artillery render it almost certain that the armaments of all our public vessels will be wholly insufficient and unreliable in a future naval contest. At all events a very great supply of guns of larger calibre will be indispensible to be added to the present armament if this should not prove to be entirely obsolete.

Where should the guns for the Gulf of Mexico be cast, if not in the Grand Valley, which it is the outlet? Where should the shot and shells be manufactured, and what better point for these purposes can be found than the site of the present naval establishment at Memphis?

In the report of the officers already referred to, a doubt is expressed as to the possibility of launching a large ship at Memphis. The committee can scarcely believe that there is any good ground for such a doubt. It is stated throughout the report that the foundations of some of the buildings are imperfectly prepared; but it is not stated that good foundations cannot be made. On the contrary, they present a plan for this purpose, which they believe will be sufficient. The committee will not undertake to determine the practicability of launching ships at Memphis, inasmuch as the commissioners aforesaid,
329 in their report, have expressed a serious doubt on the subject. But such a conclusion would be so much against the decided convictions of the committee, and the judgment of practical men living in that section of the country, that it ought by no means to be acquiesced in without a more thorough and accurate investigation of the facts upon which it is sought to be maintained. A practical test could be very easily applied, any number of responsible citizens could be found to contract, with good security, for building and launching at the Memphis navy yard, a ship of any prescribed tonnage, notwithstanding the opinion of these learned commissioners that such a thing is of doubtful practicability.

The original design of this important establishment, upon which so large a sum has already been expended, and for the completion of which State of Tennessee claims the faith of the Government to have been pledged, ought not to be changed or abandoned upon the doubtful conjectures of three individuals, who prove themselves to be but little acquainted with the true capabilities of the position. The committee are informed that the present engineer in charge of the work, and Captain Nicholson, of the Navy, now in command of the yard, are well satisfied that there can be no difficulty in establishing permanent foundations for building and launching ships. The opinions of these gentlemen are entitled to equal weight with the gentlemen to whose report reference has already been made. For the reason mentioned, therefore,
330 the committee recommend the completion of the Memphis navy yard upon its original plan, and, at the proper time, they propose to ask the appropriations necessary for this purpose.

Extract from the an'ual report of the Chief of the Bureau of Yards & Docks, Jos. Smith, to Hon. Jno. P. Kennedy, Sec'y of the Navy, Oct. 14, 1852.

[See. Ex. Doc. No. 1, 2d sess. 32d Cong., vol. 1, part 2, p. 464.]

MEMPHIS.—There has been expended during the year the sum of $59,048 68, on the following objects, viz: Tarring-house, rope-walk, cisterns, commandants' house, excavation and embankment, wing of store-house, blacksmiths' shop, pavements, drains, and ditches, hemp-house, &c.

Estimates are submitted for the next fiscal year for the following objects, viz: For excavation, embankment, and grading; completing hemp-house, completing blacksmiths' shop, and office building, cisterns for rope-walk, culvert from rope-walk to river, pavements, drains, ditches, &c., and for repairs of all kinds, amounting to the sum of $126,468 05.

I beg to refer to the report of a board of commissioners ordered to examine the premises, which report was printed in Executive Document No. 2, House of Representatives, of the last session of Congress, for information regarding the location of this yard as suitable for naval

purposes. The estimates submitted are for the gradual improve-
331 ment of the yard. They are, however, very much reduced below those furnished from that yard.

Extract from the Chief *of the Chief of the Bureau of Yards & Docks, Jos. Smith, to the Secretary of the Navy, Oct.* 31, 1853.

[Sen. Doc. No. 1, 1st sess. 33d Cong., vol. 3, p. 445.]

MEMPHIS.—There has been expended during the past fiscal year, upon the hemp-house and smith-shop, the sum of $6,110 26. These buildings are now completed and in use. The other improvements upon which expenditures have been made during the past year, are excavation and embankment, tarring-house, rope-walk, store-house, pavements, drains, &c., cisterns for rope-walk, and repairs of all kinds. Much delay has been caused in the construction of the works of this yard, by the failure of contractors to furnish building materials, and by the difficulty of procuring suitable workmen.

Plans and estimates are submitted for the next fiscal year for the following objects, viz: Excavation and embankment, pavements, drains, &c., smiths' shop, store-house, pavement along east boundary, powder magazine, gas-pipes, and lamp-posts; remounting battery, and for repairs of all kinds, amounting to the sum of $65,000.

This sum is necessary for the completion of the buildings in progress, and for their proper care and preservation.

332 *Extract from the an'ual report of the Secretary of the Navy, J. C. Dobbin, dated Dec.* 4, 1854, *to the President of the U. States.*

[Senate Doc., 2d sess'n 33d Cong., vol. 2d, page 400.]

In the 3d section of the naval appropriation act, passed at the last session, it was provided, "That all the grounds and appurtenances thereunto belonging, known as the Memphis navy yard, in Shelby County, Tennessee, be, and the same is hereby, ceded to the mayor and aldermen of the city of Memphis, for the use and benefit of said city; and that the Secretary of the Navy order the commandant of navy yard at Memphis to surrender to the mayor of Memphis said property."

In pursuance of that provision of law, I addressed a communication to the mayor of the city of Memphis, to ascertain the views of the mayor and aldermen as to the acceptance of the donation. On receiving from them a certified copy of their proceedings, expressing their readiness to receive the property, an order was issued to the commandant of the navy yard at Memphis, to surrender the grounds and appurtenances to the mayor. The order was obeyed, and in due form the surrender was made, and the property is now in the possession and under the control of the corporate authorities of Memphis. It is, perhaps, proper that I should state that there were sundry articles of property belonging to the Government used in connection with that yard, the
sale of which the Department has at present suspended at the
333 request of the mayor and aldermen, on their communicating to the Department that they had resolved to appeal to Congress to establish the navy yard. The ground and appurtenances, however, have, in pursuance of the law, been unconditionally surrendered, and the yard abandoned by the Government."

Extract from the annual report of the Chief of the Bureau of Yards and Docks, Joseph Smith, to the Secretary of the Navy, dated Nov. 1, 1854.

[Senate Doc. No. , 2d sess'n 33d Congress, vol. 2d, page 454.]

MEMPHIS.—At this yard during the past fiscal year, the wing of store-house, top shed, railing at rope-walk, and the railing on vertical wall and stairways, have been completed, and the amount expended is $13,318 73. The other objects of improvement, upon which expenditures have been made are, excavation and embankment, cisterns for rope-walk, pavements, drains, and gutters, and repairs of all kinds. The amount expended there upon these objects is $14,588 53, and there remains in the Treasury unexpended on the 1st November, 1854, funds appropriated for this yard to the amount of $44,148 51.

Congress, at its last session, having directed this yard to be offered to the city of Memphis as a donation, and the city having unconditionally the same, no further appropriations are asked or
334 desired by this Department for a navy yard at that place.

[33d Cong., 2d sess. House of Rep's. Ex. Doc. No. 28.]

MEMPHIS NAVY YARD.

Message from the President of the United States, transmitting a report in reference to the navy yard at Memphis, Tennessee.

JANUARY 4TH, 1855.—Referred to a select committee and ordered to be printed.

To the House of Representatives:

In response to the resolution of the House of Representatives of the 4th ulto., requesting the President "to communicate to this House any proposition which may have been made to the Government by the city authorities of Memphis relative to the navy-yard property recently ceded to that city, together with his views and those of the Navy Department as to the propriety of accepting the proposed re-cession and of re-establishing a naval depot and yard of construction at Memphis," I transmit herewith a report of the Secretary of the Navy, and have only to add my concurrence in the views by him presented.

FRANKLIN PIERCE.

WASHINGTON, D. C., *Jan'y 1st*, 1855.

335 NAVY DEPARTMENT, *Dec.* 26, 1854.

SIR: I have the honor to submit the following report, in pursuance of the resolution passed by the House of Representatives on the 11th inst., in these words:

"*Resolved*, That the President be requested to communicate to this House any proposition which may have been made to the Government by the city authorities of Memphis, relative to the navy-yard property recently ceded to that city, together with his views and those of the Navy Department as to the propriety of accepting the proposed re-cession and of re-establishing a naval depot and yard for construction at Memphis."

Accompanying this report is a correct copy (marked A) of the proceedings of the board of mayor and aldermen of the city of Memphis, received on the 7th of November last. These proceedings present the

only propositions which have been made through this Department to the Government by the city authorities of Memphis relative to the navy yard recently ceded to that city.

You will perceive that the city authorities do not propose an unconditional retrocession, but accompany it with certain special terms, to which Congress must agree. They disclaim the design of holding it, "provided that Congress shall, in its wisdom, in justice to the South and West, desire to reinstate said yard, not as a rope-walk alone,
336 but as a depot of construction and equipment of Government vessels for the Navy." They further say that they will deem it their duty, in consideration that Congress agree to carry out their original plan of keeping up and carrying on a navy yard of construction at Memphis, "to retrocede the property."

Congress has the power to discontinue any of the navy yards, or to convert some of them into rope-walks, and to devote others to the manufacture of machinery or ordnance. But if the terms of the proposition under consideration be acceded to, Congress will have rendered its discretion, and will be bound to keep up this, as a yard for the construction and equipment of Government vessels for the Navy, although future experience may demonstrate that it would be economy and sound policy to abandon the undertaking to construct and equip vessels, and, instead thereof, to devote it exclusively to the manufacture of machinery for our steamships, and ordnance to supply them with armaments, or to convert it into a rope-walk for the manufacture of cordage, or discontinue it entirely. I cannot consider it wise policy in the Government to own property involving large expenditures of money upon conditions, to which, in good faith, it may be bound to adhere, although found by experience to be impolitic. My views, therefore, are adverse to the propriety of accepting the retrocession or the terms proposed by the city authorities. This Government has now eight navy yards, includ-
337 ing that in progress of construction at San Francisco. They are located at Kittery, in Maine, Charlestown, Mass., Brooklyn, New York, Philadelphia, Penn., Washington, D. C., Norfolk, Virginia, and Pensacola, Florida. In my opinion these are amply sufficient for the present wants of the United States, and no other yards of construction and equipment of vessels are needed at this time.

Inquiry may be made, perhaps, as to the local advantages or disadvantages presented at Memphis, in regard to necessary depth of water and the practicability of securing the proper foundation to sustain building-slips, and launching-ways, and docks. There was a report made by a board of officers appointed by the Secretary of the Navy in 1844, Sept. 16, which is to be found in Executive Documents, 2d session 28th Congress, volume 1st; another by a board similarly appointed in 1851, June 11th, to be found in Ex. Doc., 1st session 32d Congress, vol. 2, part 2. An elaborate report was also made by the Senate Naval Committee, May 6th, 1852, which is to be found in Senate Reports, 1st session 32d Congress, volume 2d. These several reports present the results of personal inspection, and discuss elaborately the question of the suitableness of this location for a navy yard. To them I take the liberty of referring you.

To institute additional inquiry by the actual examination of
338 another board, in order to present facts and views suggested by their action, would necessarily delay a response to the resolution until the session is far advanced.

I have the honor to be, very respect'y, y'r ob't servant,

J. C. DOBBIN.

To the PRESIDENT.

A.

CITY HALL, *Memphis, Oct. 23d*, 1854.

At a called meeting of the mayor and aldermen of the city of Memphis, on Monday, Oct. 23, 1854—

Present, his honor the mayor, Messrs. Neal, Hughes, Smithurick, Morgan, Milton, Junkins, Patrick.

In the absence of the chairman, Mr. Douglas, Alderman Patrick was called on to preside.

On taking the chair, he explained that the meeting was called for the purpose of requesting the Secretary of the Navy to suspend the sale of Government property now advertised to take place at the Memphis navy yard on the 1st day of November next, until after the meeting of Congress.

Alderman Hughes, being seconded, offered the following preamble and resolutions:

Whereas we, the mayor an' aldermen of the city of Memphis, view with deep regret what we conceive to have been hasty legislation
339 in the late act of Congress, ceding the Memphis navy yard and appurtenances to the city of Memphis, thereby depriving the citizens of the great valley of the Mississippi of the benefits of a great national work; and whereas we deem this work of eaqual importance to any similar work in the Eastern States, and that justice to the citizens of the great valley of the Mississippi demands its continuance; and whereas the board of mayor and aldermen of Memphis believe that Congress may, at its next session, be induced to reconsider its act ceding the Memphis navy yard to the city of Memphis, therefore—

Resolved by said board, That, in our act receiving said navy yard, we fully disclaim the design of holding it to our own use: provided that Congress shall, in its wisdom, in justice to the South and West, desire to reinstate said yard, not as a rope-walk alone, but as a depot of construction and equipment of Government vessels for the Navy. We shall deem it our duty, in consideration that Congress agree to carry out their original plan of keeping *of keeping* up and carrying on a navy yard of construction at Memphis, to re-convey the navy yard at Memphis, grounds and appurtenances, to the General Government.

Resolved further, That the mayor immediately notify the Sec-
340 retary of the Navy at Washington City, both by mail and telegraph, of the foregoing proceedings, with the request that he suspend the sale of the Government property at the Memphis navy yard, now advertised to take place on the 1st of November next, until after the next meeting of Congress in December.

Which proceedings were, on motion, addopted unanimously by the board.

The above and foregoing is a true and perfect extract from the minutes of the proceedings of the board of mayor and aldermen had on the 23d inst.

J. M. PATRICK,
President pro tem. of the Board of Mayor and Aldermen.
A. B. TAYLOR, *Mayor.*

Attest:
L. R. RICHARDS,
City Register.
MEMPHIS, *Oct.* 24, 1854.

MAYOR'S OFFICE, *Memphis, Oct.* 24, 1854.

DEAR SIR: On the opposite hereof please find a copy of the proceedings of the board of mayor and aldermen of this city had on yesterday, requesting you to suspend the sale of the Government property in the Memphis navy yard until after the next meeting of Con-
341 gress.

All of which is respectfully submitted.

Respectfully,

A. B. TAYLOR, *Mayor.*

Hon. J. C. DOBBIN,
Secretary of the Navy.

342 *Report of survey of Memphis.*

MEMPHIS, *May 4th*, 1843.

SIR: We have the honor to transmit herewith our report and plan of the survey and examination of the harbor of Memphis, made in obedience to your order of the 25th of March. During the whole of our stay here, the Mississippi has been at its highest stage, and the low grounds entirely covered with water. We deem it of great importance to the end of obtaining more accuracy, and verifying by our own observations the information we have received from others, that we should be allowed the opportunity of revisiting this place at a season when the river will be sufficiently low to expose the entire surface of the bank. This may be the more necessary, as it cannot be known 'till then, what alteration the present flood may make in the size and form of the batture.

Very respectfully, your obedient s'v't,

(Signed) L. ROUSSEAU, *Captain.*
F. A. ADAMS, *Commander.*
S. JOHNSTON, *Lieutenant.*

The Hon. A. P. UPSHUR,
Secretary of the Navy, Washington.

343 Report of the survey and examination of the harbor of Memphis, Tennessee, by Captain L. Rousseau, Commander H. A. Adams, and Lieutenant S. Johnston, U. S. N.:

MEMPHIS, TENNESSEE, *May 3d*, 1843.

SIR: Agreeable to your order of the 25 March, we have made a survey and examination of the harbor of Memphis, and have the honor to furnish the following report, in which all the points of enquiry contained in your instructions are noticed in order:

No. 1. *Depth of water at all seasons.*—Opposite the site surveyed for a naval depot, the channel of the river runs close to the edge of the bank, and thirty feet of water may be found at the lowest stage of the river.

No. 2. *Greatest draught of water which can be carried to the Gulf of Mexico at the lowest stage of the river.*—Seven feet is the greatest depth which can be relied on during low water, which is usually about three months in the year. The quantity of water beyond that will always depend on the rise of the river, the obstructions at low water on sand banks at different points below this place.

No. 3. *Distance of low-water mark from the channel of the river.*—
344 The channel of the river runs close to the batture, and vessels of any draught can lie alongside the shore at low water.

No. 4. *Practicability of constructing w'arves.*—W'arves as they are constructed on the northern rivers are not suitable to the banks of the Mississippi, where the difference is so great between high and low water. Floating w'arves on the plan of the w'arf-boats in general use here, would be much more convenient, and could be built at a trifling expence.

No. 5. *Nature of the river banks and adjoining soil.*—Memphis is situated on a bluff of land known as the Fourth Chic'asaw Bluff, elevated eighty feet above the river at extreme low water. The soil of this bluff is clay, mixed with sand and loam, and in most places suitable for making bricks. Between the foot of it and the bed of the river, there is in some places a narrow slip of leven land, the surface of which is a little above the river at average high water. It is an alluvial deposit and liable to cave or wash away when the current of the river runs strong against it. It will be seen by the plan of survey that in front of the city and extending both above and below the site marked for a
345 naval depot is a bank, or batture, formed by the deposit of the river, which at average low water is twenty feet above the river and at the lowest water known is twenty-eight feet above it, and has at high water from six to twelve feet on it. The channel of Wolf River cuts through it and it is at the mouth of Wolf that the only practicable place for the erection of public buildings can be found in the harbor of Memphis. This is of recent formation, and is at low water dry and firm. When the building of Memphis was commenced in 1819, the channel of the river ran close to the bluff bank, and the steamboat landing at low water was then at the mouth of Wolf. In 1820 the river forced for itself a new passage, at a place some miles above, which gave a different direction to the channel; an eddy was formed where the main current ran previously, and the deposit commenced, which has made the batture what it now appears. It is *the* stated by respectable citizens of the place, that for one or two years past the batture has gained nothing in surface, but that every overflow raises it from six to twenty inches higher. To reclaim the part embraced in the site, it would be
346 necessary to level the outer edge of it and drive piles of great length at low water, from the termination of the causeway that forms its southern bounda'y up the river to the mouth of Wolf, and also around the triangle on north side of Wolf. It could then be filled up by the earth removed in grading the hill above it, and with material from other parts of the bank, or by the natural deposit of the river, which could be admitted at high water for the purpose. The cost of grading the bluff and raising the entire site above all overflow is estimated at $28,920. The permanency which may be given to works of this sort is shown at New Orleans, where a considerable portion of the city is built upon a similar batture, secured in the above manner. Wolf, is a small river, about one hundred and sixty feet wide at its mouth, and having at low water, a rapid current, and said to be two hundred miles in length. It would form in high water an admirable harbor for boats, and a good place for landing timber and stores of all kinds. It must be observed, however, that Wolf cannot be entered with boats at a low stage of the river. Thus this place presents, after being leveled
347 and filled up, a sufficient front on the river for building a convenient harbor for boats bringing iron, coal, timber, or provisions; ample space on the low grounds for rope-walks, work-shops, and other necessary buildings, and on the bluff, sufficient room for officers' quarters and marine barracks. This is the case at present, but the well known character of the Mississippi is not altered at Memphis. We have already stated that one change in the set of its current has caused the forma-

tion of the batture in front of the city; another change which can be neither forseen or prevented may occur, to throw the river once more against the bank, the batture be cut away as rapidly as it formed, and the river return to its former channel near the foot of the bluff. It is well known that changes of this sort are constantly going on in all parts of this extraordinary river, and that where the bank is caving or washing away on one side, a batture is usually formed on the opposite one. Whole acres sometimes settle down at once, bearing trees cotton fields, and sometimes even the house of the planter. In other places where the river has straightened itself by cutting through the land at
348 a bend, plantations and settlements, which had been established on the bank, were left by its new course, miles in the woods, with a mere lake before them. It is our opinion that the first of these catastrophes may be guarded at this site by securing the outer edge of the bank in the way above described, and of the second there is no danger. Whatever weights these objections may have, they will apply with equal force to all parts of the river. This is the only situation in the harbor of Memphis proper, at which a naval depot could be established, but having understood that a favorable site might be found at Fort Pickering, (a town about two miles below Memphis,) and believing it to be within the spirit of our instructions, we extended our examination to that place. The bluffs here are something higher than at Memphis, and more broken into ravines. Between the foot of them and the river is a narrow strip of land above ordinary overflow, but entirely too small for a navy yard. To obtain room here. it would be necessary to grade and level the Chickasaw Bluff; a work of immense labor and expence. And even if this were done, the buildings and work-shops wo'ld have to be erected on the hill, seventy feet above the building-ships, for
349 there is no room below. The river front which could be obtained there, is also quite small, and a bar having but little water upon it, extends along a great part of it, leaving a very inadequate space for building and launching. The bed of the river at this place is of a rocky nature, and it is said no change has taken place along the bank since the settlement of Memphis. A plan of the site furnished us by the citizens of Fort Pickering, accompanies this report.

No. 6. *Height of the bank above the river at high water.*—The height of the bluff above extreme high water is between forty and fifty feet. The low bank is then covered with from six to twelve feet of water.

No. 7. *Height of the bank at low water.*—The height of the bank above the lowest water known, is about eighty feet. The bank is then about twenty-eight feet above the surface of the river. At average low water the bank is about twenty feet above the river.

No. 8. *Protection against winds.*—The mouth of Wolf River is a harbor for boats against all winds. The western front of the site is open to winds blowing across the river.

No. 9. *Kinds and quantities of timber, iron, provisions, and supplies*
350 *of all sorts to be obtained.*—Timber abounds here in great variety: Of oaks, there are the white, the black, half ove'cup, extreme overcup, Spanish willow, black and red post, and several others. There are also the black and honey locust of large size, black walnut, maple of all discriptions, cherry, white & red elm, beech, s'eet gum, yellow and white poplar, cypress, yellow pine, very large and easily obtained from the Tennessee and Hatchie Rivers, and various other sorts, not necessary to enumerate. The overcup and willow oaks are esteemed but little inferior to the live oak. All thes' timbers are easily and cheaply obtained by water carriage. The iron of the Tennessee, which is esteemed equal

to any in the United States, can be delivered here, square and round, at eighty dollars per ton. Pig-iron, best gray, at from twenty to twenty-two dollars per ton. Pittsburg coal delivered at ten cents a bushel or three dollars a ton. Kentucky and Illinois coal, at two dollars and forty cents per ton. Tar, in abundance, at one dollar and fifty cents a barrel. The hemp of Kentucky and Missouri can be obtained in any quantity, and, from experiments made in the nei'bo'hood of Memphis, it is though' a quality may be grown here equal to any in the United States.
351 All kinds of provisions may be had in inexhaustible quantities from the vall'ys of the great rivers above, brought down on steam and flat boats, and sold at prices lower than they can be afforded in any of the Atlantic ports. Iron ore on the Tennessee, Cumberland, Missouri, Mississippi, and Ohio Rivers. By steamboat transportation iron may be delivered at this point from the works in from two to three days, and by flat boats in from five to ten days. Specimens of some of the above-named timbers will be forwarded to the Bureau of Construction and Repairs.

No. 10. *Facility of procuring mechanics and labore's.*—Mechanics and labore's may be procured here in any numbers from *from* the upper country in from three to four days, and, from the cheapness of living, it is presumed at prices as low as any portion of the western country.

No. 11. *Facilities of procuring stone, brick, and other materials for building.*—Building stone can be delivered here, rough, at one dollar per perch; dressed and laid in two-feet walls, at three dollars per perch. Tennessee marble, a beautiful material for building, at fifty cents per cubic foot, rough. Bricks of good quality laid in the wall for six
352 dollars per thousand. Lime in any quantity can be had from the upper country.

No. 12. *Practicability of obtaining water-power.*—Water-power may be obtained, if necessary, by cutting a canal from a point, about 11 miles distant on Wolf River. A report and plan of survey of the route be Col. D. Morrison, made at the request of the mayor and aldermen of Memphis, accompanies this report. We have visited the locality and examined the line, and are satisfied of its practicability. It is believed that a right of way for this canal would be given to the Government, and that it could be made within the sum specified in Colonel Morrison's estimate. There is a miscalculation in the report of Col. Morrison's with regard to the power to be obtained by such a canal, but which does not affect the practicability of the route nor the expense of construction.

No. 13. *Health of adjacent country.*—When Memphis was first settled it had a very bad reputation on the score of health. But since the opening of farms and plantations in its vicinity, the thinning of the forests, the opening of roads, and the gradual clearing up of the country it appears to have greatly improved, and is now considered equal,
353 in this respect, to any point on the river. An official statement by the board of health for four months of last year is presented herewith. The winter is said to be the most unhealth' season when *plurisis* and other deseases, incident to a variable temper'ture are prevelent.

No. 14. *Extent of the sites that may be found suitable, and the prices asked therefor.*—The site surveyed contains eighty-two and a half acres which can be increased on the north side of Wolf to a much greater extent, if desirable, at a low cost—say twenty dollars an acre. It will be seen that part of the site is embraced in the plan of the city of Memphis. The building lots are owned by various individuals, some of whom are at this time absent. Some part belongs to the city, while to other

parts there are conflicting claims. The mayor and alderman have made great efforts to remove all obstacles to obtaining for Gover'ment a clear and undisputable title, and we forward herewith a resolution passed by them, in which they undertake to sell the site to the United States for twenty thousand dollars.

The above details appear to us to convey all the information
354 necessary to form a conclusion as to the practicability of establishing a naval depot at this place. Of its expediency in a national point of view there cannot be a doubt. The reasons are too obvious and have been too abundalently proclaimed to require a repetition from us. This particular locality is excellent for a building yard; but is, perhaps, scarsely sufficiently accessible for vessels in need of repairs.

We have the honor to be, with great respect, your obedient servants,

(Signed) L. ROUSSEAU, *Captain.*
H. A. ADAMS, *Commander.*
STEPHEN JOHNSTON, *Lieutenant.*

The Hon. A. P. UPSHUR,
Secretary of the Navy at Washington.

355 *Proceedings of the board of mayor and alderman of the city of Memphis, Tennessee, on the subject of the establishment of a western armory and naval depot and dock yard at Memphis, together with the report of Col. D. Morrison, civil engineer, the report of the committee appointed by the board, &c.*

At a meeting of the mayor and alderman of the city of Memphis, held on the 23d of September, 1842, Col. D. Morrison's report of the survey and level of a canal route from Wolf River to the bluff at Memphis was received and referred to E. Hickman, mayor, L. Shanks, E. H. Porter, W. A. Bicksford, alderman, Charles Potts and S. Loa, civil engineers. A committee instructed to examine its correctness and report to the board what further action should be adopted on the subject.

At a subsequent meeting of the board, held on the 29th of September, the committee reported that they have carefully examined the report of the civil engineer, Col. D. Morrison, by comparing his field-notes, profile, and estimate on the route, with a survey made some years since by Col. Potts for a road over most of the same ground; that they
356 are satisfied it may be relied upon as being correct and it be received, and, with the profile, be recorded on the journal of the board for future reference.

The committee further recom'end that said report of the civil engineer, with the report made to Congress by Mr. Clark, chairman of the Committee on Naval Affairs, and the memorial of the Chamber of Commerce of the city of Charleston, South Carolina, on mail routes, together with such facts as are not embraced in either report which maybe deemed important to the agents of the Gover'ment in selecting a location for the western national armory and naval depot and dock yard, and to manufacture's be printed, and that copies be forwarded to the officers of the Gover'ment concerned in the location, members of Congres', &c.

Whereupon the board resolved that the same committee be instructed to make the report and publication recommended.

(Signed) E. HICKMAN, *Mayor.*
(Signed) JAMES H. LAWRENCE,
Recorder.

To the mayor and alderman of the city of Memphis.

357 GENTLEMEN: In pursuance of your request that I should furnish the board with a written report of a canal route from Wolf River to this place, and the deep interest manifested by every class of citizens, especially by the enterprising and intelligent planters and farmers in the nei'borhood of the contemplated route I take, much pleasure in laying before you the following report:

I commenced my survey on the 29th of August, one and a hale miles above Stanley's Ford, on Wolf River. At this point the stream is confined within high, firm banks, with a smooth, hard bottom. Here a permanent dam can be built, and suitable stone can be procured in the immediate vicinity. A survey of the river at this point gives the following result: Width of stream, 101.70 feet; mean depth, 5.97 feet; mean velocity, 100 feet in 59 seconds—making 61,780 cubic feet per minute. Here the leveling commenced following the valley of the river 160 poles from this point—course north 80 degrees west to the headwaters of Hurricane Creek, a distance from the river of two miles and eight poles. Here a cut of 1.95 foot wide and 40 poles long will
358 bring the water to this *this* point, from thence little more is required than to open a ditch for the water to the high grounds half a mile east of Memphis, where the bayou forms a natural tail-race, or half a mile north of the town, where Wolf River would form the tail-race into the Mississippi River. The ground, through the whole route, being a tenacious clay, with a small admixture of loam and sand, and of that peculiar character best adapted to cheapness and facility of constructing a canal and for holding water, there being no rock to blast or sand or gravel requiring to be puddled. The length of the canal will not exceed eleven miles. The fall from Wolf River to the high water of the Mississippi is 46.72 feet. It is unnecessary for me to tro'ble you with the details of my calculations either as to the cost or the time it would take to execute the work; the aggregate amount is what more directly interests you than the steps by which the conclusions are obtained. My estimate of the cost of constructing a canal 40 feet wide at the surface, 26 feet wide at the bottom, and four feet deep, including a
359 permanent dam in Wolf River, is $50,000. And I will here venture the opinion that experienced contractors are to be found at this time to undertake the work at 10 per cent. under my estimate, and complete the same in nine months. The annexed map and profile will show at a glance the relative position of Wolf River and the high and low water of the Mississippi.

The proposed dam would be required to be 10 feet high to turn the water out on the margin of the valley; and thence, with a small cut 40 poles in length, to run it upon the flat country, on a line nearly in the direct course towards Memphis. The fall from this elevation to water by the dam in Wolf River, to extreme high-water mark in the Mississippi River, at Memphis, being 46.72 feet, from which, deducting the depth of the canal at the dam, and one foot head, 5 feet, and the fall of the canal six inches per mile, 5.50; and 2.22 feet loss in the application of the water—making, together, 12.72 feet—leaves 34 feet fall. With 34 feet fall, 61,750 cubic feet of water per minute, is equal to 2,740 horespower, (Bolton & Watts' standard,) for propelling machinery for mechanical purposes, if the machinery is kept in constant use; but if used
360 but twelve hours a day, reservoirs made by the dam and othe' near works, would retain the water that would accumulate the other twelve hours, so that an effective force can be had equal to 5,480 horse-power, twelve hours per day, at all seasons of the year; and

eight months in each year. This power can be doubled by using the water a second time from the bottom of the first 34 feet fall on extreme high water in the Mississippi River, when said river falls to its common summer and autumn stage, which gives 37 feet fall between extreme high and ordinary low-water marks.

Should the commissioners select this point as the site for the Western National Armory, it will require 200 horse-power to propel their machinery, as understood from the commissioners. And should Congress, as is recommended in the report of the Committee on Naval Affairs, establish the western naval depot and dock yard at this point, it would require (say) 200 horse-power more, leaving, after an abundant supply for the Government purposes, 2,340 horse-power for other manufacturing purposes from the constant supply of Wolf River at extreme low
361 water, without what may be accumulated by reservoirs, and increased by using the same water twice; showing, beyond all doubt, an ample supply of water for all the purposes of the Government for watering the city, and for flour-mills, cotton-factories, saw-mill, and all the various manufactories that may be required.

To show the great superiority of water-power over steam in point of economy, it may not be uninteresting to give some estimates of the comparative expense of the two. The high-pressure engine used in this country, according to the best standard of calculation, require about two bushels of coal, or an eighth of a cord of good wood, for each horse-power per day, or twelve hours; while for 2,740 horse-power would consume 5,480 bushels of coal, of 342 cords of good wood. Estimating the coal at eight cents per bushel and the wood at two dollars per cord, and the cost of the coal would be $438 40 per day, or $13,140 00 for three hundred days, and the cost of the wood would be $684 per day, and $205,200 00 per year of three hundred working days. To this must be added the interest on the cost of engines, wear and tear, engi-
362 neer's salaries, and the expense of keeping them running, &c., amounting to about 33 per cent. per annum, which exhibits in a striking point of view the superior cheapness and advantages of water-power. From that fact that there is no other point near the Mississippi River within hundreds of miles of the center of the great valley, where water-power can be obtained at all, and the incomparable position of Memphis being the head of uninterrupted navigation at all seasons of the year, commanding unlimited supplies and an unlimited market, there can be little doubt that as soon as this water-power is afforded by the construction of the canal, most of it will be used. Considering not only the utility to result from the construction of this canal to the city of Memphis and the surrounding country, but the perpetual source of revenue it may be made to the city, the undersigned earnestly recommends to the corporate authorities to take such steps forthwith as will secure the construction of the canal and the control of the water-power by the corporation.

As an inducement to do so the board is assured that, from general desire to have the canal made by the owners of the soil over
363 which it will pass, and pledges already given by most of them, the right of way can be obtained from all free of cost of right of way. The object of obtaining good soft water in sufficient quantity in all time to come, to water a city of any size on this bluff would be a sufficient inducement to obtain the control of the work. But when it is further considered that the amount of water accumulated in the reservoir during the twelve hours when the machinery would not be in motion would be more than ample for this purpose, leaving the amount

of constant effective power above calculated, together with a power from a second use of the same water during low water in the Mississippi River for active use, the inducements as a source of immense and perpetual revenue to the city cannot, at the present time, be fully estimated.

Reference however to the value of water-power in the northeastern portions of the United States, where numerous sites for water-power compete with each other, may afford some data upon which this estimate may be based.

364 At Paterson, Manayunk, Lowel', &c., the use of water-power is sold with less fall at from three to ten dollars the square inch under three feet head, making the cost of one-horse power where the fall is eighteen feet from thirty to one hundred dollars. Taking, then, less than medium price here, where there is a third more fall, (say fifty dollars per each horse-power,) and the constant effective power alone, estimated, would be worth $137,000 per annum.

To this amou't of annual revenue which may be *revived* from the constant supply of water afforded by Wolf River at its lowest stages, without estimating what may be gained by reservoirs and the use of the same water twice, must be added the large and rapidly increasing revenue which would be afforded by a water tax for the supplying of all the houses with hydrants in such an important and rapidly-growing city as Memphis.

These estimates of the amount of water-power, and the supply for watering the city on this bluff, as you will perceive, are made upon the quantity of water in Wolf River at extreme low water, and not

365 upon the quantity that a canal of the proposed dimensions will poss' for present use.

The amount of revenue to the city would clearly be so large, together with other comforts, conveniences, and advantages, such as promoting health, lessening the danger of fire, and cost of fire insurance on houses, goods, &c., that I cannot too strongly urge upon the board the importance of securing to the city of Memphis the immediate control of so important a sourse of comfort, health, prosperity, and future wealth to the town.

I remain with all possible respect, gentlemen, your obedient servant.

(Signed) D. MORRISON.

Mr. J. C. Clark, from the Committee on Naval Affairs, submitted the following report:

The Committee on Naval Affairs, to whom was refer'd the memorial of the legislature of Tennessee in relation to the expediency of establishing a naval depot and dock yard at the city of Memphis, in the State of Tennessee, have taken the matter therein contained into con-

366 sideration, and beg leave to submit the following as the result of their deliberations.

The important changes produced by an application of steam in propelling ships of war have been repeatedly noticed in various reports made to bouth branches of Congress, and it is unnecessary for this committee to go into this subject now. It is enough to say that a most extraordinary change has taken place, and a new era has commenced in maratime warfare requireing a corresponding change in our preparations for our national defence. As long as war ships depended on the winds for their propelling power, with great risk, a hostile fleet would dare venture up our streams, and even into or near our harbors. But now, since they have brought steam to their aid they will no longer be

confined to the bosom of the ocean, but can bring their cannon to bear on our cities and towns, cut off and annihilate our commerce, unless, in time of peace, we prepare for war, according to the new forms in
367 which that game of ambition among nations is destined to be played since the power of steam has been brought to its assistance. This preparation for defence against the rapid approach of hostile fleets propelled by the powerfull agency of steam must consist, in a great degree, of 'hips of a similar kind, aided and sustained by floating batteries, and other modes of defence suited to the rapidity with which the attack is made. And, although from our habits of thinking, and the policy of our institutions it is not supposed that for a while our naval force will be greatly increased, yet our preparations for war s'ould be such as to make us feel that perfect security and con'ciousness of national strength that will give dignity and firmness to all our negotiations with foreign nations.

Should war come with any of the principal maratime powers of Europe the South and West must become an important point of attack. The mighty commerce of the Mississippi and it' great tributaries will be blocked up at the very opening of the war, and there will not,
368 unless the Government acts on the subject, be found the preparations necessary for a suitable defence of that extensive and important region of country. The valley of the Mississippi, it is true, will furnish its half million or million of fighting men, inured to toil and accustomed to danger, who will roll down like a flood on the bosom of the great father of waters. But then their value will be unaided by the preperations which are so essential, and without which victory is hardly to be looked for. If they knew the point of attack they might, even with a hasty breastwork of cotton bags, cover themselves and their country with glory. But then in this new mode of war to attack cannot be known. A hostile fleet may come and go with the rapidity of steam, bearing off the wealth of our cities and towns, and the rich commerce floating down the great western waters before the invincible valor of the adjacent country can come to their rescue. Nothing can save these consequences except preperations in time of peace for the defence of this vast but now almost *im*protected region of country.

Preperations for the defence of the South and West being, in
369 the opinion of your committee, absolutely necessary for the protection, in time of war, of the commerce of the Mississippi and its tributaries, it next becomes proper to enquire in what manner and when these preparations should be made, and what should be the location of naval and other establishments necessary to effect this great object.

Hitherto the South and West have comparatively enjoyed but little, in fact almost nothing, in the way of local advantages, from the Navy. This has sprung from causes not now necessary to enumerate. It is sufficient to say that it has not been bec'use the South do not possess advantages and afford facilities for national depots, dock yards, and other naval establishments, equal to at least other portions of the Union.

The legislature of Tennessee, in the memorial which has been refer'ed to this committee, invites special attention to the city of Memphis as a suitable point for the establishment of a naval depot & dock yard. This place, in the opinion of your committee, enjoys great local
370 & other advantages for an establishment of the kind.

It is situated on a high bluff, on the left bank of the Mississippi River. The country back of it is well supplied with running

streams and springs of good frese water, and the health is believed to be as good as any other parish on the river. Sufficient water-power for propelling machinery, it is said, can be had at no great expence, so that every circumstance connected with the immediate locality of the place seems highly advantageous for an establishment of the kind proposed.

But other circumstances still more strongly recom'end Memphis for it' advantages in a national point of view. It is in the interior, eight hundred miles from the mouth of the great Mississippi, with uninterrupted navigation at all times for the largest vessells. It is at a point far enough south not to be disturbed in winter by ice, and far enough north to be saved in summer from the peculiar diseases of the south.

It is far enough in the interior to be protected from surprise
371 by a sudden assault from a hostile fleet, and by the application of steam is near enough the seaboard to bring its preparations for defence and attack to bear upon this ocean in any and every emergency. It is below the mouth of all but two of the great tributaries of the Mississippi, where the greatest amount of provisions and munitions of war can be thrown in the least possible time, and at the least possible expense. At no point can all the materials for building steamers and other vessells, and subsistance and supplies of every description be concentrated so rapidly, and at so small expense. A distinguished officer of the Navy, in writing of the advantages of Memphis in this point of view, says: "Instead of carrying the live oak from Louisiana to New York or Boston for building steamers, as we do now, it could then be carried at half the cost, and only one-sixth the distance to Memphis. A national dock-yard there would open a market for the hemp of Kentucky, the coal of Pennsylvania, the pork of Ohio, the beef of
372 Illinois, the flour of Michigan, the copper of Iowa, the lead of Missouri, and for the iron, the mechanical skill and agricultural products of all these States. The boatmen on the western waters, from their habits of discipline and energy, acquired by the nature of their employment, will, it is believed, furnish some of the best material for the Navy." The same naval officer, speaking on this subject, says: "But the revolution which the powers of steam *are* effecting in the means of maratime warfare, the Mississippi boatment will be to the Navy in the next war what our Marblehead seamen were in the last."

One other consideration connected with the peculiar position of Memphis is worthy of special notice. It is the point selected in 1830-'31 for the western terminus of the Atlantic and Mississippi Railroad. This road is to run from Charleston, S. C., or Savanna', Ga., via Augusta and Green'boroug', Ga., Decatur, Courtland, and Tuscumbia, Ala., and La Grange, Tenn., to the Memphis Bluff. More than half of this
373 road is completed and in operation, and there seems no reason to doubt the ultimate completion of the balance, so that ere long Memphis will not only enjoy the advantages furnished by nature in the gift of the waters of the mighty Mississippi, but, when this road is completed, will enjoy the additional advantages of this great and noble work of art. The communication to the sea-board through these great channels will make Memphis a centre, a heart from which the best blood and energies of war will flow when our country is invaded by land or sea.

These views your committee have thought proper to submit in regard to preparations for the defence of the South and West, the establishment of a naval depot and dock yard for the purpose and the advantages of Memphis as a site for its location. To this we only add on' other consideration. By introducing the Navy on the waters of the Mississippi, and calling the valorous and hardy sons of the West into that service,

popular prejudices will be removed which are now so unhappily
374 springing up because of the supposed neglect of that great region of the country.

The distinguished officer of the Navy whose opinions we have already quoted, after dwelling on other considerations connected with the advantages of the Navy to the South and West, says:

"Greater than all these partial benefits would be the national advantages to be derived by introducing the Navy in the West. Her sons would man our vessels sailing thence; popular prejudices against the Navy and the sailors' calling would be removed, and by the force of habit and association there would be rendered available to the country in war the services of eight or ten thousand western watermen, who would man our armed steamers far more efficiently than the seamen of the East. It is important to gain over from these men predilections for the Navy, and this can only be done by creating, as it were, a navy in the midst of them; enlisting their sons, brothers, friends, and neighbors in the
375 service, and by affording them all frequent opportunities of going on board and otherwise being in contact with the public vessels.

With these views and considerations your committee respectfully recom'end the establishment of a naval depot and dock yard at the city of Memphis, and ask leave to report a bill for a survey and examination, under the direction of the Navy Department, with a view to such establishment.

A BILL.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to cause to be made an examination and survey of the harbor of Memphis, in the State of Tennessee, in refererence to the expediency of establishing a naval depot and dock yard for the building and repairing ste'm ships and other vessels of war at that place; and that he report to Congress the result of such examination and survey, and that the sum of three thousand dollars be,
376 and the same is hereby, appropriated out of any money in the Treasury unappropriated to the expences of such examination and survey.

Passed the House August 24, 1842.

Memorial on mail routes.

This memorial of the Chamber of Commerce of the city of Charleston to the honorable the Senate and House of Representatives in Congress assembled, respectfully represents:

That it has been reported that an effort is now making in Congress to change the route of the great mail between Boston and New Orleans, from the railway and steamboat conveyances, via Virginnia, the Carolinas, Georgia, and Alabama, to that of the Mississippi; that a proposition to that effect has been made by a company, which has received the favorable consideration of the Postmaster General, to transport the great mail from the extreme eastern sections of the Union via Washington and Pittsburg or Wheeling, and by steamers or the Mississippi, to New Orleans, thus excluding the whole Southern and
377 Atlantic States and cities from the circulation of that intel'igence, rapid and certain, which is so essential to give life and animation

to the commerce of the whole country. The Chamber of Commerce are at a loss to comprehend, in a ter'itory so extended as that of the United States, embracing twenty-four States and almost as many latitudes and longitudes, what is understood by the main mail-route between Main' and Louisiana. The four great sections of the Union—eastern, middle, southern, and western—are but parts of one community, through which, as in the human system, to preserve a healthy circulation, many arteries and many veins are necessary. The certain and rapid communication of intelligence from the East to the West, and from the South to the North, are all of equal importance to our common country, and it is the function of the Postmaster General so to arrange the channel ways of intel'igence, as to secure the most harmonious circulation throughout the whole, accommodating all, and showing preference to none. Whatever may be the conflicts of rivalry and enterprise in different
378 sections of the country, (and they, after all, do not paralyze, but rather impart animation to commerce,) there should be none in the public conveyances of intel'igence, which should be equal and common to all parts of the Union. The Chamber of Commerce of Charleston are unable, therefore, to comprehend how the importance and necessity (which they readily admit) of a great mail from the eastern to the southwestern extremity of the United States via the valley of the Mississippi, should be made to come in conflict with, or to suspend another great mail now in successful operation, and equally as important and necessary, via the Middle and South Atlantic States, through Alabama & Mississippi, to New Orleans. The railroads which have already been constructed to the enterprise of the South and West, together with the steamers on the rivers & bays filling up the connecting links of communication, already afford the most certain and the most rapid conveyance for the mail to the great emporium on the Mississippi; and when those railroads in Alabama, Tennessee, Georgia, and the Carolinas,
379 now in progress and completed, no route will able to compete with the southern in speed, security, and certainty. No season can affect it; while, on the Ohio, the alter'ations in its spring and autumn floods, and the ice of winter and drouth of summer, annually present impediments which must render the transportation of the main mail in that direction, for many months in the year, irregular, and not to be depended upon. It is the opinion, however, of this Chamber (and the' submit it for consideration with very great deference to those who will have to decide on it) that a plan of mail conveyances may be matured, through the co-operation of the Navy and Post Office Departments, by which the preparations for sea-co'st and maritime defences may be made subservient to the transportation and protection of the mail, and which may be so arranged as to make both the great channel ways of communication via the Mississippi and South Atlantic railroads unite and harmonize for a certain distance on a common route.

The Secretary of the Navy, in his report, has recommended war
380 steamers for the purposes of defence on the Atlantic sea-coast as well as on the Mississippi River. These boats may be so constructed and so employed as to answer the double object of carrying the mail in peace, and extending protection in war. The mail service, in times of peace, will maintain these steamers at the least cost to the Government, and, by being at all times in actual service, a school of instruction to acquire a knowledge of the machinery and the best mode of manouvring that class of vessels of war, will be afforded to the officers and crews that may man them. Should those views meet with the concurrence of the general assembly, the Chamber of Commerce would in-

vite attention to the route via the railroads through Virginia, the Carolinas, Georgia, and Alabama, to Memphis, on the Mississippi. On this line, not exceeding thirteen hundred miles from Washington, there are already six hundred and fifty miles of railroad completed and in successful operation, and the larger portion of the remain'g distance is in progress, and part now under contract. The connecting links for
381 steamers are, 1st. Between Washington City & Potomac Creek, or Annapolis and Portsmouth, as the Gover'ment may prefer. 2d. Between Wilmington, N. C., and Charlesto', S. C.; and 3d. Between Memphis and New Orleans; and if these gaps in the railway communication are filled by well-planned steamers, adap'ed to the navigation, this route may not only be made in the shortest time and with great exactitude, but the Gover'ment will always have ready for service a home squadron of war steamers, prepared to repel aggression on the Ches'peak', on the coas' of the Carolinas and Georgia, and on the Mississippi. The mail-route will not supersede the one proposed by the Mississippi. On the contrary, it may be made to harmonize with it, as the smaller class of boats which would be necessary for the Upper Mississippi and its tributaries, might be made to unite with the war steamers at Memphis, and from thence, by a common route, all the mails be transported to New Orleans. At no season of the year could the intercourse by this route be interrupted. The steamers from Memphis may be of the larger class, and mad' equal to the defence of the whole
382 western division of the Union as the protection of the Mississipp' comprehend security to the whole valley. A naval station arsenal at Memphis and a continuous railroad from thence to Charleston would extend to the Atlantic all the advantages of protection now enjoyed by the States on the Lower Mississippi, as by this communication the militia of the West may concentrate with the same facility, and within the same period, on the frontiers of Carolinas, Georgia, and Louisiana.

All which is respectfully submitted by orde' of and in behalf of the Charleston Chamber of Commerce.

(Signed) KER BOICE, *Pres't.*
(Signed) WILLIAM B. HERIOT, *Secretary.*

Report of the committee appointed by the board of mayor and aldermen of the city of Memphis.

In obedience to the instructions of the board of mayor & aldermen of the city of Memphis, the undersigned committee, feeling desirous to base their statements made (in addition to the reports which
383 they are directed to publish) on facts or the most imposing authority, and beli'ving it important to furnish such facts as would satisfy the public at a distance of the healthfulness of Memphis at present and disabuse all minds of the impression produced as to the unhealthfulness of this bluff by the reports of its sickliness ten or twelve years since when there were but a few uncomfortable cabins surrounded by a heavy damp forest, have obtained & publish herewith a short report from the board of health, to which they refer.

With this proof of the healthfulness of the city of Memphis, situated as it is at the head of uninterrupted navigation at all seasons of the year for the largest size boats—in a medium climate, free from the chil. ling frost of the North and the relaxing heat of the South, both unfa. vorable to the full and profitable development of labor eith' in the prod.

ucts of agricultural or mechanical operations—the interested is referred to the engineer's report for the *for the* evidences of important local advantages of this bluff from the cheap and convenient supply of water-power which may be obtained to any amount required by the
384 Gover'ment for the national armory and naval depot and dock yard, and for all other purposes of manufacturing that may be profitable and usefully adopted.

Connected with these important local requisites, mildness of climate, healthfulness, and ample supply of water-power, the country contiguous furnishes a varied soil and preculiarly well adapted to the production of all the essential articles of subsistance; while with these are to be found as much healthfulness, with as many conveniences for obtaining the comforts and luxuries of life, as any other portion of country in the Ohio or Mississippi valleys—making it preculiarly desirable as a residence for the capitalist seeking a country affording comfort and convenience, and at the same time the widest field for active enterprise either in agriculture *of* manufactoring.

Our own observation isconfirmed by the testimony of many intel'igent & experienced farmers from old States to the fact that the extensive country east of Memphis is preculiarly adapted to the production of all the various kinds of grain and grass and the culture of cotton,
385 requiring less open land for a given number of hands; that grain crops is the staple, but as the land is cleared and manufactories are introduced the system of agriculture will be changed. To bring about this result many of the planters have expressed great solicitude that the projected canal be made and that wheat-mills and other manufactories be established; and propose it the Gover'ment does not make the canal for her public works, or it is not made by the corporation, that it shall be done by a company formed of the planters of the country, with their own hands.

The farmers and planters of the country have two objects in the establishment of manufactories with water-power; one is to get their wheat (which they can raise with great success and certainty) manufactured iuto flour, so as to avail themselves of the early southern market, before supplies from the upper country can be furnished; and the other is to create a steady market for their surplus provisions.
386 Such is the character of the country and climate, that it is believe' if a steady market were opened by the establishment of manufactories in this vicinity, in a short time supplies of provisions would be furnished by the contiguous farmers as cheaply as at any point in the United States. This result would necessarily be secured by the competition perpetually existing between the supplies furnished from the contiguous country and the unlimited amount of supplies capable of being furnished from all the country above, by the cheapest possible mode of transportation. Without the full development of the neighborhood, competition with the river supply of provisions, they are now sold at nearly as low a price here as at the important towns above.

Occupying then a medium position between the producind and consuming portions of country where the great *the great* Mississippi from all its tributaries above floats down at the cheapest possible rate all the necessaries for subsistance afforded in the upper country, where
387 the contiguous country is capable of furnishing all these supplies in abundance; where water-power of any necessary amount for manufactoring can always be had; where the materials for cotton and various other manufactories are produced or can be cheaply and conveniently procured; and where the market of the West & South is more

accessible and convenient for all kinds of manufac*tories* at all seasons of the year, than at any other point where manufac*toring* is now done—it may be assumed that no point in the United States hold' out greater or even the same advantages and inducements for enterprise and the investment of capital in manufacturing.

Without chilling frosts and ice to cause the hand employed to sh'ver away the winter morning, to lock fast the water-wheels of the machinery, and to obstruct the navigation by which the supplies are obtained, and the manufac*tored* articles are cheaply and swiftly wafted to the distant western & southern markets, incident to the more north-
388 ern country where manufac*toring* is now mainly done; and near the centre of the great valley of the Mississippi, where much of the meat and bread that sustains the nort'eastern manufactories are produced and whence *much* of the raw materials are shipped to them to be returned when manufactured taxed with the expence of two long voyages back to the western and southern market the manufac*tores* here might realize all this expence of shipment in the increased profits of his labor, together with a greater degree of comforts and productiveness in his *operations*.

The prominent advantages of Memphis over any other point in the West or South for the location of the national depot and dock yard (and the same reasons apply with equal force in favor of the location of the western armory) in addition to its geographical position are so ably set forth in the report of the Committee on Naval Affairs to Congress, that but little is necessary to be said by us more than to refer it, and express our gratification that a place so new and a country so
389 early in its progress of settlement and improvement should have its advantages so well understood abroad.

In addition, however, to the general view which is presented in this report of its geographical position, its local advantages, the favorable character of the country, the cheapness and convenience of getting supplies of all kinds, the certainty and facility of embarking troops and munitions of war to all parts of the West & South without obstructions from ice or low water is the benefit to the national Navy to be derived from its introduction upon the waters of the Mississippi by familiarizing the thousands of western boatmen with and breaking down their prejudices against naval life; and thus inducing them to man the naval war steamers more efficiently than could be done by eastern sailors; and the great national advantages of having all these requisites for defence in war at a position available at all times and in all seasons of the
390 year for concentration at any point on the western frontier or the southern Gulf coast. Some other facts need to be stated to show fairly the comparative advantages of the city of Memphis with other points proposed for the location of the national armory and dock yard.

Mr. Clark's report shows clearly that, in a national point of view, from the geographical position of Memphis, her claims are unrivalled, being at a sufficient distance in the interior to prevent surprise from the assault of a hostile fleet; and, by the application of steam, near enough the sea-board to bring its preparations for defence and attack to bear upon the ocean in any and every emergency; below the mouths of all but two of the great tributaries of the Mississippi, where the greatest number of efficient volunteers, and the greatest amount of provisions and munitions of war can be thrown in the least possible time, and at the least possible expence; where all the materials for building steamers and other vessels, and subsistance and supplies of every descrip-

391 tion, can be concentrated with more certainty and facility, and at less expense than any other.

With these facilities afforded the Gover'ment, by a location at Memphis, a greater extent of country would be benefitted by furnishing "a market for the hemp of Kentucky, the coal of Pen'sylvania, the pork of Ohio, the beef of Illinois, the flour of Michigan, the copper of Iowa, the lead of Mis*isirous*; and for the iron, the mechanical skill, and the agricultural products of all these States.

While these benefits would be afforded all the States above, by creating a market for their various products, the numerous and abundant sources of supplies of everything required would, by competition, alway' insure their procurement at a fair price, and often less than the market price in the neighborhood where they are produced.

In demonstration of this fact Kentucky or Indiana coal can be bought here in large quan'ities at 6 to 8 cents, and Pittsberg coal at 8 to
392 10 cents a bushel, when it is sold higher a short distance from the mines, at retail. Bar iron in large quantities can be bought at from 4 to 4½ cents per pound, and pig-iron at $20 to $25 per ton; and it is confidently believed that at all times large contracts can be made, from the effects of competition between the numerous iron works above, at a lower price for its delivery here than it could be purchased at any one of the works above without the influence of competition.

The same fact exists in reference to other necessary supplies. Lumber is sold at the landing here, for cash, at less than the ordinary price in the upper country, and can always be purchased at but a small advance on the actual costs at the mills, from the cheapness of flat-boat transportation.

For ship-building the surrounding country abounds in almost every variety of timber; and the flats of Wolf and Hatchie Rivers especially afford an inexhaustible supply of oak, which is considered by
393 competent ship-carpenters to be but little inferior to live oak for strength and durability. This oak can be floated down these rivers to Memphis at but little expence. The construction of the canal for water-power would open the cheapest and most convenient outlet possible for a large supply of this timber, upon which it could be conveyed to the mills, and thence to the dock-yard by water.

We might greatly enlarge these views by showing the extensive connection of Memphis with the western, southern, & eastern portions of the United States by land communication, in addition to her unrivaled facilities for water transportation.

The Gover'ment road from Memphis to Little Rock, in Arkansas, would require but a small appropriation to complete it to that point; and thence the country is favorable to improve, at a small expense, the communication by land to the southwestern frontier posts or Red River, &c.

The connection by railroad between Charleston, South Carolina,
394 and Savannah, Georgia, and all the intermediate points, to Memphis, (as has been correctly shown in Mr. Clark's report,) is, so far, completed and in operation; and the balance of the way so practicable and so important to be made that no reasonable doubt can exist that it will (not) be many years before it is all finished and in successful operation. No line of communication between the Atlantic border and the Mississippi Valley presents the same advantages for railroad travel and transportation, on account of the favorable character of the country through the entire route, requiring neither inclined *plains* nor tunnels, the consequent cheapness of its unrivaled success and profit from the

large amount of transportation of produce, merchandise, and travel over it.

Upon this route, when completed, the time required to travel from Memphis to Washington City will not exceed four days, allowing fifty-four hours to make the trip from Memphis to Charleston, a dis-
395 tance but little greater than from Charleston to Washington, which now only requires about forty hours, affording not only great rapidity to the travel of the country, but greatly increased promptness, speed, and certainty in forwarding dispatches from the capital to the southwestern country, and concentrating from thence forces, supplies, and munitions of war upon the southeastern Atlantic border.

The present route from Memphis, up the Mississippi and Ohio Rivers, and across the country to Washington, requires, in a good stage of water, about twelve or fourteen days; down these rivers, from Washington, about nine to eleven days; but in the fall and winter, when the navigation of the Ohio River is obstructed by low water or ice, the time is uncertain, and the route is often impassable.

With these facts it requires only a glance at the map of the country to be satisfied, not only of the large amount of freight that must be carried over this road from the intermediate country to the markets
396 at each extremity, but of its unparalleled advantages for general travel to the country, and for transportation to the Government.

The Chamber of Commerce of the city of Charleston, South Carolina, last winter, based a memorial to Congress of the superior advantages of this route, and the important position of Memphis, (to which we respectfully refer,) praying the establishment of two great mail lines from Washington City to the southwest: one by the way of Charleston, and the other by the way of the Ohio and Mississippi rivers, both to concentrate at Memphis; whence to and from New Orleans, the mail to be carried on a regular line of Gover'ment war steamers, to be used for this purpose in time of peace, and as a school for the Navy, so to be ready manned at all times for war. With such an array of advantages, so far acknowledged by the Committee on Naval Affairs, and by the Charleston Chamber of Commerce as to induce them to recommend Memphis to Congress without a rival for the naval depot and
397 dock-yard, and for the point of connection of the two great mail lines between Washington City and uninterrupted navigation of the Mississippi River, whence to and from New Orleans, to be carried in Government war steamers, it seems useless for the committee to say more in favor of the claims of the city of Memphis for the location of the western national armory and western naval depot and dock-yard.

We cannot close this report, however, without craving the attention of the Gover'ment to the great extent of the valleys of the Mississippi and her tributary rivers, their immense wealth, and large population, constituting nearly a moiety of the whole population of the nation, all of which are identified in interest in the means and preparations for protection and defence of their frontier, and especially of their great emporium, the city of New Orleans; and that to the present moment this portion of country has not been furnished by the Gover'ment with an armory and naval dock-yard to supply it with arms, floating bat-
398 teries, or steamships-of-war for its protection and defence, its cres'ent city being thus left exposed and defenceless, to be sacked and destroyed by the first assault of an enemy, and the whole country to feel and participate in the loss.

Having presented the claims of Memphis upon the General Gover'ment for the location of these works—*from her local advantages, her facilities for the location of these works*, from her local advantages, her facilities for uninterrupted navigation, and her unrivaled military position, in a geographical point of view, for convenience and utility—and having pressed the importance and necessity to the West and Southwest of the immediate establishment of these works by the Gover'ment, we may, without ostentation, present a few considerations, which we think ought and will unite the whole South and West in favor of this point.

In pursuance of the instructions from the President, the com-
399 missioners sent out to select a location for a western armory are limited to uninterrupted navigation, and to Memphis as the most southern point; and the Committee on Naval Affairs recommends Memphis, without a rival for the location of the western naval depot and dock-yard. Neither Arkansas, Louisiana, Mississippi, nor Alabama has a point within the instruction of the commissioners, nor will they propose one within their limits.

It behoves them, then, as well as the other Southern States, to obtain such a location as will be most convenient, and at all times make the necessary preparations for their defence at all important points most available, both by water and by land. They have, therefore, to select between Memphis, with uninterrupted navigation and great facilities for land communications with portions of them, and some point on the rivers above to which navigation *is* interrupted by low water and by ice, and for which no suitable land communication can be substituted.

The States above, on the Ohio, Mississippi, and Missouri Rivers,
400 as well as the States of Tennessee on the Cumberland and Tennessee rivers, will enjoy all the advantages in getting Gover'ment supplies from Memphis that the uninterrupted facilities of navigation on those rivers could possibly afford the Southern States if the location *were* made on either of them above; while the location at Memphis would be more national in every point of view, affording prompt and certain supplies at all times for the defence of the most vital and important point in the South and West, the city of New Orleans, and also the Gulf coast, affording as much promptness and certainty as any other in getting supplies for the protection and defence of the whole western frontier border, and affording (what is the most important benefit of these Gover'ment works to the more interior upper States) a market for their supplies of every kind, open equally to them all, and accessible by the cheapest and most convenient transportation possible for heavy products in flat-bottom boats down stream.

401 Many valurable facts and considerations on this subject, and the most unrivaled importance of Memphis in a military point of view, have been presented by Maj. Gen. Gaines, in his report to the War Department, to which reference is respectfully solicited by the committee.

(Signed) EDWIN HICKMAN, *Mayor.*
LEWIS SHANKS.
E. H. PORTER.
W. A. BICKFORD.

CHARLES POTTS,
EDWIN S. TOD,
Civil Engineers.

Report of the board of health.

In compliance with the request of the committee appointed by the board of mayor and aldermen to the board of health for the city of Memphis for such facts as may be furnished in reference to the h'alth of the city, the board report:

That the number of cases of sickness and the number of deaths, in proportion to the population, have diminished annually since the
402 bluff has been clearing up, and the freshness and dampness of the soil have been lessened by tramping and the improvements of the streets, and more regard has been paid to healthfulness and durability in the style and materials of the buildings; that this progressive improvement in health may confident*ial*ly be expected, and that for health Memphis will bear favorable comparison now with any town upon the Mississippi or Ohio rivers.

Without encumbering this report with other facts on which this opinion is based, the number of deaths that have occurred during the past summer, from the 1st of June to the 1st of October, is given. This aggregate number of deaths includes all that have occurred in the city, both strangers and citizens, during four months, and is made up from the weekly reports that have been published.

Adults, male residents	3	Adults, m. stra.....	5
" female "	5	" femal' "	2
Children.....	12	Children	7
	20		14
			20
Making an aggregate of.....			34

403 The population of Memphis proper, exclusive of the suburbs, South Memphis and Fort Pickering, is estimated at near 4,000, which makes about the rate of one and a half per cent. of citizens, and two and three-fo'rth per cent. of strangers & citizens together per annum, to have died in four months, embracing the sickly season of the year.

(Signed) LEWIS SHANKS, *M. D.*,
Secretary of the Board of Health.

MEMPHIS, *Oct.* 1*st*, 1842.

At a meeting of the board of mayor and aldermen of the town of Memphis, held on the fourth day of May, A. D 1843, for the purpose of securing to the Gover'ment of the United States the ground surveyed in front of said town by the commissioners for the national navy depot and yard, the following act was unanimously passed by said board, to wit:

Be it enacted by the mayor and aldermen of the town of Memphis, That, for and in consideration of the sum of twenty thousand dollars,
404 when paid, the mayor of said town be, and is hereby, authorized and required to make a deed conveying to the Gover'ment of the United States the ground surveyed by Captain Lawrence Ros*sour*, Commander Adams, and Lieutenant Stephen Johnston, commissioners on the part of said Gover'ment for making a survey of the har-

bor of Memphis for a navy yard and depot, so long as it shall be used for that purpose, if said location be made within two years.

Said ground situated and lying and being in the front part of said town, and bounded as follows, to wit: Beginning *of* the Mississippi River on a line with the south side of Market street, extended to said river; thence running obliquely across Market street, extended over the batture to the north side of Market street, within*g* one hundred feet of the houses on Front Row; thence north, along the west side of Front and Chickasaw streets, to the south side of Auction street; thence west with the south line of said street to Wolf River; thence the same
405 line continued from the west side of Wolf to the Missi'ppi River; thence down the Mississippi River to *to* the north side of Wolf River, at its mouth; and thence from the south side of Wolf River down the Mississippi River to the beginning:

To have and to hold the same for the purpose above mentioned.

(Signed) EDWIN HICKMAN, *Mayor.*
(Signed) J. H. LAWRENCE, *Recorder.*

MEMPHIS, *Nov. 9th*, 1843.

At a meeting of the mayor and aldermen of the city of Memphis, on the 8th inst., it was unanimously—

Resolved, That the corporation of the city of Memphis, in the State of Tennessee, hereby propose and bind said corporation, if the Federal Gover'ment locate the navy depot and dock yard upon the site fixed upon by the commissioners at Memphis, to furnish the Gover'ment perpetually, from the time that may be agreed upon by the parties, two hundred horse-power, and as much more as may be deemed necessary for Gover'ment purposes, of water, at two-thirds the cost of steam-
406 power per annum; and guaranty the right of *of* way for carrying the water from the basin to the dock, a distance of one hundred and twenty poles.

Resolved, That the mayor forward a copy of the above proposition to the Secretary of the Navy signed and sealed in due form.

(Signed) E. HICKMAN, *Mayor.*
(Signed) J. H. LAWRENCE, *Recorder.*

MEMPHIS, TENNESSEE, *October 28th*, 1843.

SIR Agreeable to the orders of the Honorable Secretary of the Navy, we have revised and continue our examination of the harbor of Memphis, and have the honor to report as follows:

We find the batture and low grounds adjacent, which at the time of our first visit were covered with water, now bare and dry, and at an average h'ight of nineteen feet above extreme low water. That part of the batture embraced in the proposed site for a naval depot was not increased in surface by the overflow in the spring, and received but a very small deposit from the river.

407 The soundings taken at this time show a variation to have taken place both above and below the mouth of Wolf River; above the mouth, the Mississippi has deepened its bed six feet, while below, it has shoaled three feet. The channel of the river has received no new direction; and the batture appears to have reached its limits. With a view to ascertain the quality of the soil below the bed of the river we made experiments by boring in various places, above and below the mouth of Wolf River, and found an average depth of twenty-five feet below the present surface of the river, and about fifty feet below high water, apparently rock or a conglomeration of gravel and other substances.

From the imperfection of our implements, it was impossible to ascertain its character with more exactness. In passing downward through the batture it was found to be saturated with water at and below the lever of the river forming a sort of quicksand, with occasionally sufficient firmness to support piles driven into *to* it against the operation of
408 the river, should its force be turned against them. The hard bottom below offers a better foundation. While the Mississippi continues to run in its present channel it would, perhaps, be unnecessary to secure the bank by piles; boring and filling up would be ample protection. Should any future throw the current against this side it will then be indispensable to protect it either by mason work from the rockey foundation, by piles, or by some other effective mode. A group of islands immediately above Memphis devides the river into several branches which are united again before passing the city. It is thought practicable to prevent the river from setting against the Tennessee shore, (should it ever appear inclined to take that direction) by obstructing the passage between two of the islands or between and island and the main land so as to force it into other channels.

In our former report we stated that water-power could be obtain-
409 ed by a canal from Wolf River at a point about eleven miles and a half distant, by a route which we have examined; and that a right of way for such a purpose would be given to the Gover'ment. Since then arrangements have been made to construct this canal at the expence of the city. It is contemplated to reserve a sufficient amount of the water-power it will furnish for the use of the navy yard should it be established here. Distinct propositions on the matter will be transmitted to the Navy Department by the city authorities, as soon as the surveys and estimates are completed.

With regard to all other points to which our attention was directed, the results of our present examination and inquiries confirm the opinions and establish the facts set forth in our former report.

We have the honor to be very respectfull' your obedient servants,

(Signed) L. ROUSSEAU, *Captain*,
H. A. ADAMS, *Com'nder, U. S. N.*
S. JOHNSTON, *Lieutenant.*

Hon. DAVID HENSHAW,
Secretary of the Navy, Washington City.

410 *Extract from Congressional Globe, 2d session 33d Cong's (vol. 30, page 1127.)*

In Senate Committee of the Whole, viz:

MARCH, 3*d*, 1855.

Br. BELL. We have some amendments from the Committee on Naval Affairs.

Mr. BELL. I am directed by the Committee on Naval Affairs to report the following amendments to come in at the close of the appropriations for navy yards:

MEMPHIS.—For excavation, embankment, smith shop, store-house and repairs of all kinds, $30,000: *Provided*, That no part of this sum shall be expended, until the board of mayor & aldermen of the city of Memphis shall have retroceded to the United States said navy yard, with all the fixtures and appurtenances thereto belonging, unconditionally, by deed, in such form as shall be approved by the Secretary of the Navy.

Mr. STUART. As I understand that amendment it is proposed to make an appropriation for the Memphis navy yard, which we gave away a year ago. That certainly is not in order, under the rules of the Senate. There is no estimate for it, and cannot be, for we do not own the property. The amendment proposes, by its very terms, that it shall have no application until the mayor and aldermen of Memphis retrocede the property to the United States. Now, sir, how can you or an appropriation bill, appropriate money for such a purpose under our rules. I make the point of order.

411 Mr. BELL. The question is left open, by the proceedings of the mayor and aldermen of the city of Memphis. I consider the provision important, not so much to the city of Memphis and the State of Tennessee, as to the public interests of the country at large; but, sir, a question of order is raised; I presume, however, there will be no difficulty in deciding that when the question is fairly stated.

Mr. PRESCOTT. The chair will inquire whether the amendment is recommended by the Committee on Naval Affairs.

Mr. BELL. It is; and has the approbation of the Secretary of the Navy, unofficially and informally communicated.

Mr. STEWART. That is not my point of order.

Mr. BELL. If there is no further objection to the point of order, I desire to make a short statement in relation to the amendment.

The PRESIDENT. The chair decides the amendment to be in order.

Mr. STEWART. The chair has not decided the point of order which I raised. That point of order is this: That the United States do not own the property. It was ceded a year ago, and the authorities of Memphis, to whom it was ceded, have agreed to recede it in case the United States will retake it. It is not at this day the property of the United States, and the amendment itself, as the chair will perceive on reading it, provides that the money shall not be applied until the city authorities retrocede the property.

412 Now I ask, under the rules, how can you in a general appropriation bill, which only appropriates for the affairs of the Government money to be applied to the property of the Government, make an appropriation of that sort.

The PRESIDENT. That is a matter for the Senate to determine for themselves. The amendment having been reported by a committee the chair recognizes it as in order.

Mr. BELL. Although an act was passed in the last session ceding the navy yard to the city of Memphis, the consummation of it has been suspended, by the consent of the Government, to see whether an adjustment of the question can be arrived at between the authorities of the city of Memphis, to whom the property was ceded, and the Government.

Mr. EVANS. How much do they ask for?

Mr. BELL. The sum of $30,000 is all propose to appropriate now. This navy yard, so far as improvements have been made at it, is of the most substantial character. The work, so far as it is finished, has been done in a workmanlike and artistic manner.

The Government has not at any time made any arrangements to construct vessels of war at that yard. The policy seems to have been, in the first place at all events, to employ it as a rope-walk or as a place for

413 the manufacture of cordage for the use of the Navy of the United States, and for that purpose the most perfect machinery now known in the world has been purchased. It is even more perfect than that which is employed at the navy yard at Charlesto'n, Massachusetts, because there has been combined with the new machinery all the im-

provements known in this country and in Europe. This Government has expended upon this property between $700,000 and $800,000.

Upon a very brief discussion, and surely with a very little deliberation, it was agreed at the last session, to cede the property to the city of Memphis, without any consideration.

It has given rise to some difference of opinion, as to the point of policy, among the city authorities and inhabitants of Memphis, and it has given rise to some complaints and dissatisfaction throughout that whole section of the Union, that property of this great value, situated as this is, and intended for such national and indispensable purposes, should be thus disposed of. It would be of some advantage, in a pecuniary point of view, to the corporate authorities of Memphis, to hold the property, and they have manifested a disinclination to surrender it, unless the Government will come under engagements to make it a yard of construction and equipment.

414 That the Executive Government has positively declined to do. The Congress of the United States have heretofore declined to employ it as a yard of equipment and construction, and I believe that is not uncommon in regard to some other navy yards, which are still sustained by the United States. The proposition is now, taking up the estimates of the Navy Department for the last session of Congress, to make an appropriation of less than one-half the amount estimated for at that time. The estimate was $105,000. It is now proposed to appropriate only $30,000 for the purposes specified in the estimate of the Secretary of the Navy at the last session of Congress, so there is no committal of the Government to make it a yard of construction or equipment. The amendment leaves the Government to exercise the discretion of making that a yard of construction or equipment at their pleasure, or never, if they think proper. It never will be, so long as the present Executive Government is in power, and so it may be with every other Executive Government that succeeds. They will exercise the discretion of recommending whether or not public vessels shall be built or equip'ed there, or whether the yard shall be employed exclusively for the manufacture of cordage.

Now, Mr. President, the proposition is to make this small appropriation for the objects contemplated by the Navy Department, not one of

415 which includes the idea of making this a yard of construction or equipment, and not one dollar is to be expended until the city authorities shall have unconditionally retroceded the property to the Government of the United States.

There is a conditional retrocession already tendered to the Government, to which the Executive refused to accede, and to which Congress *are* not disposed to accede. The Committee on Naval Affairs have therefore authorized me to offer this amendment, refusing to accede to it You have already expended $800,000 on this yard. The machinery alone for the manufacture of cordage costs $100,000. That is ready to operate in a hemp region, and which is likely to be the only available hemp region as long as the present war continues in Europe; I refer to Tennessee and the States lying north of it on the Mississippi River, our own hemp region. I should like to know who at present can foresee the termination of that war.

This yard, in every respect, is well adapted to the manufacture of that indispensable article for the consumption and sustenance of the Navy of the United States.

But, sir, I do not propose to go into any argument on this subject, because it is to' late. I must submit to whatever the Senate shall, in their

Mr. STUART. As I understand that amendment it is proposed to make an appropriation for the Memphis navy yard, which we gave away a year ago. That certainly is not in order, under the rules of the Senate. There is no estimate for it, and cannot be, for we do not own the property. The amendment proposes, by its very terms, that it shall have no application until the mayor and aldermen of Memphis retrocede the property to the United States. Now, sir, how can you or an appropriation bill, appropriate money for such a purpose under our rules. I make the point of order.

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Mr. PRESCOTT. The chair will inquire whether the amendment is recommended by the Committee on Naval Affairs.

Mr. BELL. It is; and has the approbation of the Secretary of the Navy, unofficially and informally communicated.

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Mr. BELL. If there is no further objection to the point of order, I desire to make a short statement in relation to the amendment.

The PRESIDENT. The chair decides the amendment to be in order.

Mr. STEWART. The chair has not decided the point of order which I raised. That point of order is this: That the United States do not own the property. It was ceded a year ago, and the authorities of Memphis, to whom it was ceded, have agreed to recede it in case the United States will retake it. It is not at this day the property of the United States, and the amendment itself, as the chair will perceive on reading it, provides that the money shall not be applied until the city authorities retrocede the property.

412 Now I ask, under the rules, how can you in a general appropriation bill, which only appropriates for the affairs of the Government money to be applied to the property of the Government, make an appropriation of that sort.

The PRESIDENT. That is a matter for the Senate to determine for themselves. The amendment having been reported by a committee the chair recognizes it as in order.

Mr. BELL. Although an act was passed in the last session ceding the navy yard to the city of Memphis, the consummation of it has been suspended, by the consent of the Government, to see whether an adjustment of the question can be arrived at between the authorities of the city of Memphis, to whom the property was ceded, and the Government.

Mr. EVANS. How much do they ask for?

Mr. BELL. The sum of $30,000 is all propose to appropriate now. This navy yard, so far as improvements have been made at it, is of the most substantial character. The work, so far as it is finished, has been done in a workmanlike and artistic manner.

The Government has not at any time made any arrangements to construct vessels of war at that yard. The policy seems to have been, in the first place at all events, to employ it as a rope-walk or as a place for

413 the manufacture of cordage for the use of the Navy of the United States, and for that purpose the most perfect machinery now known in the world has been purchased. It is even more perfect than that which is employed at the navy yard at Charlesto'n, Massachusetts, because there has been combined with the new machinery all the im-

provements known in this country and in Europe. This Government has expended upon this property between $700,000 and $800,000.

Upon a very brief discussion, and surely with a very little deliberation, it was agreed at the last session, to cede the property to the city of Memphis, without any consideration.

It has given rise to some difference of opinion, as to the point of policy, among the city authorities and inhabitants of Memphis, and it has given rise to some complaints and dissatisfaction throughout that whole section of the Union, that property of this great value, situated as this is, and intended for such national and indispensable purposes, should be thus disposed of. It would be of some advantage, in a pecuniary point of view, to the corporate authorities of Memphis, to hold the property, and they have manifested a disinclination to surrender it, unless the Government will come under engagements to make it a yard of construction and equipment.

414 That the Executive Government has positively declined to do. The Congress of the United States have heretofore declined to employ it as a yard of equipment and construction, and I believe that is not uncommon in regard to some other navy yards, which are still sustained by the United States. The proposition is now, taking up the estimates of the Navy Department for the last session of Congress, to make an appropriation of less than one-half the amount estimated for at that time. The estimate was $105,000. It is now proposed to appropriate only $30,000 for the purposes specified in the estimate of the Secretary of the Navy at the last session of Congress, so there is no committal of the Government to make it a yard of construction or equipment. The amendment leaves the Government to exercise the discretion of making that a yard of construction or equipment at their pleasure, or never, if they think proper. It never will be, so long as the present Executive Government is in power, and so it may be with every other Executive Government that succeeds. They will exercise the discretion of recommending whether or not public vessels shall be built or equip'ed there, or whether the yard shall be employed exclusively for the manufacture of cordage.

Now, Mr. President, the proposition is to make this small appropriation for the objects contemplated by the Navy Department, not one of which includes the idea of making this a yard of construction or

415 equipment, and not one dollar is to be expended until the city authorities shall have unconditionally retroceded the property to the Government of the United States.

There is a conditional retrocession already tendered to the Government, to which the Executive refused to accede, and to which Congress *are* not disposed to accede. The Committee on Naval Affairs have therefore authorized me to offer this amendment, refusing to accede to it You have already expended $800,000 on this yard. The machinery alone for the manufacture of cordage costs $100,000. That is ready to operate in a hemp region, and which is likely to be the only available hemp region as long as the present war continues in Europe; I refer to Tennessee and the States lying north of it on the Mississippi River, our own hemp region. I should like to know who at present can foresee the termination of that war.

This yard, in every respect, is well adapted to the manufacture of that indispensable article for the consumption and sustenance of the Navy of the United States.

But, sir, I do not propose to go into any argument on this subject, because it is to' late. I must submit to whatever the Senate shall, in their

Mr. STUART. As I understand that amendment it is proposed to make an appropriation for the Memphis navy yard, which we gave away a year ago. That certainly is not in order, under the rules of the Senate. There is no estimate for it, and cannot be, for we do not own the property. The amendment proposes, by its very terms, that it shall have no application until the mayor and aldermen of Memphis retrocede the property to the United States. Now, sir, how can you or an appropriation bill, appropriate money for such a purpose under our rules. I make the point of order.

411 Mr. BELL. The question is left open, by the proceedings of the mayor and aldermen of the city of Memphis. I consider the provision important, not so much to the city of Memphis and the State of Tennessee, as to the public interests of the country at large; but, sir, a question of order is raised; I presume, however, there will be no difficulty in deciding that when the question is fairly stated.

Mr. PRESCOTT. The chair will inquire whether the amendment is recommended by the Committee on Naval Affairs.

Mr. BELL. It is; and has the approbation of the Secretary of the Navy, unofficially and informally communicated.

Mr. STEWART. That is not my point of order.

Mr. BELL. If there is no further objection to the point of order, I desire to make a short statement in relation to the amendment.

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But, sir, I do not propose to go into any argument on this subject, because it is to' late. I must submit to whatever the Senate shall, in their

wisdom and discretion, think proper to enact. We propose to make this small appropriation when the authorities of Memphis shall have retroceded their property absolutely to the United States. It has already cost the Government nearly $800,000. This amendment leaves it to the dis-
cretion of Congress and the Executive Department hereafter to
416 use it as a rope-walk, or as a yard of construction and equipment, as they think proper. I think the time may come when it will be found most expedient for the public service to use it as a yard of construction and equipment, as well as for the manufacture of cordage, because it is secure from any invasion of an enemy, from any part of the Gulf coast. It never can be reached by a public enemy. I will say now, that I think most of our navy yards on the Atlantic coast might be reached by the overwhelming powers of some of the governments across the Atlantic, either by England or France, or both combined, but I leave all these views out of the question; I simply refer to Congress, to say whether or not they will hold this property, and use it for public purposes to the extent, that they, in their discretion, shall think it ought to be used, upon the condition of the absolute retrocession by the city of Memphis.

Mr. SEWARD. I wish to say, that I suppose the Senate understood last year, that it was rather an act of caprice than otherwise, which established this navy yard. I concurred in the suggestion which was then made, and which came from some Senator who understood the matter.

Mr. STEWART. It was the Senator from Tennessee, (Mr. Jones.)

Mr. SEWARD. I concurred in it with regret, and I now join in putting it back to where it belongs.

Mr. STEWART. I do not at this stage of the session to go into a discussion of this subject further than to say that Congress, at
417 the last session, disposed of this property to the city of Memphis, without fee, and without price. They made a donation of it to that city. There were certain reasons that were stated, of a general character, why it should be done; they were not applied particularly to this navy yard, but they were applied to the subject of navy yards generally. It was insisted, and insisted with great propriety, that the Government of the United States were maintaining such a number of navy yards as to constitute, unnecessarily, a very great tax upon the Treasury of the United States; and, after an attempt was made to get an appropriation for this navy yard, and the sense of the Senate had been obtained decidedly against it, I think the Senator from Tennessee (I may be mistaken in that, but at all events, some Senator) moved the proposition to make a donation of it to the city, and the Senate agreed to it. Now, sir, for certain reasons, *least* known to the people of that portion of the country, they prefer that the United States should keep the property, and keep up the an'ual expenditures, rather than have an unconditional donation of it to them. I, of course, do not undertake to speak authentically, but they are reasons that can very well be imagined, for a navy yard in a community leads to an extensive reception of the public money, to be expended there every year, and it might be well inferred that the people in that immediate vicinity would prefer that course to be pursued.

All that I mean to say upon this occasion, at least for the present, is this: that Congress, with the approval of the Executive Depart-
418 ment, having a year ago taken this step, it would be best to have the recommendation from the Executive Department that we should retrace it, rather than to proceed to retrace it in this manner. If it is believed to be the best for the public interests to retrace the

step, to take a retrocession of the property, and again go on with the expenditures, I shall not vote against it; but, believing, as I did, that a navy yard thus situated is not subservient to the best interests of that department of the service, I confess that I was glad to see the act, while at the same time I could not see the authority to do it.

But, sir, that question is foreclosed; the act has been performed; the deed is consum'ated; and it seems to me, that on this, the last day of the session of this Congress, we should do well to wait for a recommendation from the proper Department before we take the initia'ry step to again procure the right and authority over that property. This is the only suggestion I desire to make. I only ask the Senate to consider it. If they disagree with me, as a matter of course, I shall be bound to believe that my views on the subject are erroneous.

MR. JONES, of Tennessee. I did not intend to say one word upon the subject, nor should I depart from that purpose but for the fact allusion has been made to my course with regard to it at the last session of Congress. It is true, as stated by the Senator from Michigan, that I then offered to the Senate a proposition to cede the navy yard at Memphis to the city authorities at Memphis. I have been understood as having done that in a moment of excitement. It is true that I was ex-
419 cited. I felt that I had a right to be excited; but whether there was excitement or not, under the same circumstances, I would make the same proposition that I then made. If the same determination obtains in the Senate or in the Congress of the United States to-day, as manifested itself then, I will stand by that proposition.

What were the circumstances under which I offered that proposition to the Senate? Here was a navy yard that had been established by the Government of the United States at the city of Memphis. The city authorities had ceded to the General Government the ground upon which the property was to be located. The General Government had agreed and contracted to build thereupon a navy yard. It went forward to execute that contract, and after spending some $800,000 it stop'ed, turned its attention in a different direction, and when the appropriation bill came up here at the last session to continue that navy yard, we were tendered in lieu of it the miserable, contemptible sum of $13,000. That for a national navy yard! Under that infliction of wrong and injustice to my constituents, the Government having taken their property from them by a donation for a special purpose, under a written contract that it was to build a navy yard upon it, I felt that the time had come, I, representing that constituency, should tell the Senate if it was their de-
liberate purpose to abandon the navy yard, that, in justice and
420 common honesty, they were bound to give back the property to those whom it belonged originally. That I maintain to-day. That I shall maintain as long as I live, and when I come to die I shall maintain it.

If the Congress of the United States are willing to carry out in good faith their original contract, I desire that they shall do it. I have always desired that they shall do it. Not because my constituents are interested in it, but I consider the whole country, and particularly the great vall'y of the Mississippi, interested in it. To abandon it, and convert it into a contemptible rope-walk, having thirty acres of ground almost in the heart of the city, is an act of injustice to which the Congress of the United States can never lend its action, in my judgement.

I am content with the proposition presented by my colleague. It simply provides that an appropriation of $30,000 shall be made to con-

tinue the yard, without any other specification in it than that the corporation shall retrocede the property to the Government of the United States. It leaves it with the corporation to decide for themselves what is best for themselves. I will never, by vote or act of mine here, lessen the power which the corporation has over that. I do not believe that this proposition does do it. I think the proposition is fair; it is just so far as it goes. It is not just, so far as the original intention and purpose of the contract is concerned, but it can do no harm to anybody, and if the Congress of the United States chooses to pass it I am con-
421 tent with it, and shall give it my sanction. It simply refers the question to those to whom you have conveyed the property. If they are willing to give it back to the Government unconditionally, without requiring the Government to carry out the original contract, be it so. I shall not complain. They have the right to do it, and therefore I am content that we shall pass the amendment offered by my colleague. The course which I took is such a one as I am ready to maintain at all times.

Mr. RUSK. This navy yard was established many years ago. It was alleged by the Department, I believe, to be necessary I shall not go into the reasons for it. Memphis was then, compared with what it is now, an unimportant place, and is now, compared with what it will be very soon, in my judgment, an unimportant place. I look upon it as destined to be one of the most important places in the United States, and if, in the exercise, perhaps, of a hasty temper we last year passed a law giving the property back to the city, I hope that temper will not now be kept up, but that the amendment will prevail.

Mr. MALLORY. I shall vote for the amendment, but I only wish to say that it must not be taken as an indication of my willingness to support the constructing of a navy yard at that place.

Mr. STEWART. I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. STEWART. I shall ask them again in the Senate.

The amendment was agreed to.

422 *Extract from Congressional Globe, vol. 28, part 3d, page 2153.—Debate in the U. S. Senate.*

AUGUST 3D, 1854.

Mr. GWINN. I have but one more amendment to offer, and then I shall be done. It is in the appropriation for the navy yard at Memphis, Tennessee. It is to strike out $13,000 and insert $30,000. I will state the sum is less than one-half of the estimate of the Department, the estimate being $65,000 for that navy yard. I hope the amendment will be adopted.

Mr. PEARCE. I think it would be much better to strike out the whole appropriation than to enlarge it. The idea of a navy yard at Memphis is a perfect delusion. Congress made a great mistake in ever establishing a navy yard seven hundred miles from the sea, upon a river whose waters, during a large portion of the year, are not of a sufficient depth to allow vessels of a draught of more than seven feet to ascend it. I believe this navy yard is wholly useless. I know the whole history of it, and I think if we were to appropriate a dollar more than is already in the bill, it will be better to strike out the whole appropriation.

Mr. BELL. Now, Mr. President, I should like to *to* know what the Honorable Senator from Maryland knows so much more than any other Honorable Senator. Let him inform us why it would be better to strike

out the whole of this appropriation. The Honorable Senator says he knows the whole history of it. What was it? I should like to hear it.

Mr. PEARCE. Perhaps you would not like to hear it.

423 Mr. BELL. I was not here when this navy yard was commenced, but I know the Government has gone on and established a navy yard there, and appropriated some $700,000, or $800,000 for it, and for building it up. The expenditure has gone as high as $800,000, or $900,000. It is said that it is seven hundred miles from the sea. I admit that that is a formidable objection, but a great many Honorable Senators and members of Congress generally, thought a navy yard could be established there upon great public principles in reference to what is called our great inland sea, the Mississippi. Some Honorable Senator thought it would be better to establish a navy yard at Memphis instead of at Baton Rouge, or at New Orleans, because it was in a latitude where more continuous and uniform health could be expected. It was established, too, in the neighborhood of the finest building materials of fine white-oak, and other timber used in ship-building, and in the vicinity of the finest iron and coal to be found anywhere in the United States. As I have stated already, it is above the latitude of those dangerous epidemics which sometimes effect the Lower Mississippi at New Orleans, Baton Rouge, and Vicksburg. Memphis is about the line where the advantages of health are expected. These considerations undoubtedly influenced Congress in the original establishment of this yard.

But, sir, I will dismiss all considerations as to the wisdom and expediency, or sound policy of the establishment of a navy yard at Memphis originally, and come to the question of whether, after you have

424 expended $800,000 or $900,000 there, after you have gone on to great buildings, and after the Government has, as I learn, independently of ship-building, the finest establishment there which exists in the United States, you will not appropriate a sufficient sum. I am told by those who seem to know a great deal about it, that you have over $100,000 worth of the finest machinery there. I have looked at it and inspected it, and I understand it is superior to all similar machinery in the country.

I learn that it has been the policy of the Department to make Memphis a place for the manufacture of cordage for the Navy of the United States, and they have fine machinery there for that purpose.

The considerations which led to this view was, that it was in the vicinity of the finest hemp grown in the United States, the Missouri and Kentucky hemp.

It may be true, sir, as the Senator from Maryland says, that, during some seasons of the year, only vessels of seven feet water could pass over the bars in the Mississippi. I do not know whether that is really so or not. Below Memphis there may be an occasional bar in the lowest stages of the water, but for nine or ten months in the year I am sure the largest class of vessels may be floated in safety up to that point.

What is now wanting is the completion of this yard. It will cost $400,000 or $500,000, perhaps, to make it adapted in all respects for the construction of vessels of war. I do not know that it would be important to discriminate between the largest classes of vessels and the

425 lowest, or to take the medium class. Perhaps none but the medium class could be constructed and floated out there; still, that would be an acquisition. The time may come, sir, when we shall have a contest for the command of the Gulf of Mexico, and then a navy yard seven hundred miles from the sea-coast on the Mississippi River may be a very valuable acquisition for the maintenance of our rights and our

sovereignty in the Gulf. There can be no substantial objection on that ground.

Now, sir, as to the pitiful appropriation proposed in the bill. You might as well strike it out altogether. The appropriation in the bill is $13,000 for excavation and embankment, smith shops, store-houses and repairs of all kinds. What is $13,000 for such a purpose? You might as well strike out the amount at once. The Navy Department, *who* had no disposition to favor the navy yard at Memphis, recommended a much larger sum. The commandant and the other officers of the Government having control of this yard, and appointed for the purpose, recommend, I believe, about $500,000 as necessary to complete the yard, and put it in a position where dilapidation could not go on to destroy the works which had already been in part constructed. The Department reduced that recommendation down to $, which, with all their notions of the inferior virtue of this yard, compared with other yards, they recommended to Congress as the minimum sum.

Now the House of Representatives have reduced the amount to
426 $13,000. I prefer greatly that the Senate should strike out the entire appropriation, because $13,000 is a mockery. I will not argue the question; but if you mean to preserve the works which you have already constructed there at an enormous cost, you ought to make the appropriation about $30,000. Situated as that yard is, on the margin of the Mississippi, where another stream, Wolf River, flows into it, we are liable to the loss of more than $30,000 for the work already completed, if we have no greater appropriation than that. But, sir, I trust the Senate, even although they may hereafter conclude that it would be economical and proper to dispense with this yard altogether, will appropriate enough to preserve the valuable public works which are already constructed, and which are as valuable as those at Boston, New York, and Philadelphia, or at any other navy yard in the Union. I have understood they have gone on with the works there with a view to the manufacture of cordage, because they supposed they could get there the best material, and could manufacture it at a less cost than at any other point in the United States.

Mr. PEARCE. I do not think I ever assumed to know more than all Congress, or than anybody else; but I have an undoubted right to give the opinion which I entertain, and it is not to be influenced or controlled by the opinions of others. I simply express my own opinion, and I am very sure that if all of us were compelled to say what we think, whether we desired to do so or not, nine members out of ten in the Senate would say that a navy yard never should have been established at Memphis.

427 When *he* said I know all about the history of this yard, I meant this—that Congress, on the occasion of its establishment, yielded to the anxious solicitude of certain gentlemen, then members of this body and the other house, under the pressure of local influences. Further than that I need not go. I know the proposition was first received with a smile of mirth on every countenance, but at last it was obtained, and it seems the Government has gone on and expended $900,000, or $1,000,000, on this yard. The Senator tells us that delapidation has already begun. In ten years we have expended nearly $1,000,000 and never yet built a ship there, and I undertake to say never will build one. It may be a good place for a national rope-walk for the manufacture of cordage, but that is not a navy yard. My opinion is we ought never to have established a navy yard there. We have no use for one at that point. If delapidation has begun already, I think we had better

stop it at once. I will not consume the time of the Senate on this question.

Mr. JONES, of Tennessee. Mr. President: The Senator from Maryland undertakes to adjudicate this question, I think, without any facts before him. He says a navy yard ought never to have been established at Memphis. Well, sirs, the Congress of the United States thought differently. That is mere difference between the Congress of the United States and the Senator from Maryland, and I should decline long to take the opinion of any one Senator as against the combined action of
428 the American Congress. But, sir, that is not all. At the last session of Congress, the Naval Committee sent to you one of the strongest reports I ever read in favor of the continuance of this yard as a navy yard under the Government of the United States. The Senator says, however, that it ought to be abolished. That is his opinion, but I entertain a very different view. I undertake to say that vessels can be built there cheaper than in any other navy yard in the United States. I will not set up my judgement against that of the Senator from Maryland, but I speak the opinion of every commandant who has been at the navy yard from its origination up to the present time. I have before me the report of the present commandant of that yard, in which he presents to the Department the expenditures necessary to carry out that work, amounting to $70,000, and he has a high opinion of its importance.

The Senator says that it had better be abolished. I ask that Senator if he can abolish it without a violation of the faith, the honour, and the integrity of this nation. The State of Tennessee and the city of Memphis gave to the Government of the United States a large plot of land, worth now about $500,000, expressly upon the condition that the Government should establish a navy yard there. Now, before Congress attempts to abandon it, I wish them to go back and retrocede to us the land which they have taken. I would much prefer that they should do that rather than go on with the mere pretence of keeping up a navy yard by appropriating $13,000 a year. Your commandant there,
429 one of your own officers, having charge of the yard, sends his estimates, and tells you that it will take $700,000 to carry out the contract which the Government has made with the people of Tennessee to establish a navy yard there. The Department reduced it to $65,000; the House reduced it to $13,000; and, now, the Senator from Maryland wants to strike it out altogether. Of the latter two propositions, I think that of the Senator from Maryland is the best. You had better strike out the whole appropriation rather than give only $13,000, for it will be that much money thrown away; but if you mean to carry out the obligations of the Government in good faith, make an appropriation adequate to carry on the work. It is said that the navy yard is seven hundred miles from the sea. What difference does that make if you have as good transportation from Memphis to the ocean as from Baltimore to the ocean? Does it follow that you must be on salt water to enjoy any of the benefits or patronage of the Government? That seems to be the doctrine of some gentlemen here, but I do not subscribe to it. I can tell the honorable Senator from Maryland that, during eight months of the year, a vessel that can go out from the port of New Orleans, can go out from the port of Memphis; the shallowest part is at the mouth of the river, which one of the appropriations in the river and harbor bill is for the purpose of deepening. During eight months in the year, whenever you can go out from New Orleans, you can go from Memphis. I
430 know, sir, this is no time to debate the question. It is reserved until the last hour of the session, and then we are called upon to

surrender the rights of our constituents, or we are charged with consuming the public time, and delaying the appropriation bill. This is not my fault, whatever charges may be made. I must protest against such an appropriation as is here proposed, of only $13,000, for such a purpose. If you intend to carry out in good faith the object in which you have engaged a much larger sum is necessary. You have at this point some of the finest machinery in the Union, which has cost the Government $100,000. That machinery stands still, and your $13,000 will hardly keep it in repair. For what purpose did you buy it? For what purpose did you put it there, unless you meant to operate it? You seem to have been diverted from the original purpose of establishing a navy yard at Memphis, and have converted it into a rope-walk. You have built your houses and your machinery in the houses, and there the machinery stands, and you do not give money enough to buy hemp to carry it on. That may be carrying out the good faith of the Government, but I do not so understand it.

Mr. ATCHISON. I was a part and parcel of the navy yard transaction as well as my friend from Maryland. We were here at the time it was proposed by a Senator from Tennessee, who was then a candidate for governor of that State.

Mr. BELL. Do you mean me?

431 Mr. ATCHISON. No, sir; you were not in the Senate at the time. The question was asked of the Senator, to whom I refer, for what purpose will you establish a navy yard at Memphis? Is it for the purpose of building vessels of war? Is it for the purpose of building mercantile vessels? Is it for the purpose of repairing vessels; and if so, how are you to get those vessels to the Gulf of Mexico after you build them at Memphis, when for a large portion of the year you have not over seven or nine feet of water? The response was made (and triumphantly, because we all voted for it) that vessels were to be brought from the Gulf of Mexico to be repaired to Memphis, seven hundred or one thousand miles from the Gulf—they were to be brought by camels. My friend from Maryland will remember it well.

Mr. PEARCE. Yes, sir.

Mr. ATCHISON. And, sir, when the question was asked what kind of camels they were, the Asiatic or American camel, the camel with one or two bumps, it was said that these camels are iron or wooden boxes, to be exhausted and placed on each side of the vessel, and the vessel is to be lightened by those camels, and then, in that manner, brought up from the Gulf of Mexico to Memphis. (Laughter.) Yes, sir, every word of this is true. That was the argument. Now, I wish to ask the Senator from Tennessee, whether a vessel was ever built at the Memphis navy yard, and whether a vessel was ever repaired at that navy yard?

Mr. JONES, of Tennessee. I will answer the Senator with a great deal of pleasure. There never has been a vessel built there, because the yard has never been completed. It is impossible that we can build a
432 vessel, when you will not permit us to finish the yard. We have got the rope-walk, but you will not even let us work that.

Mr. ATCHISON. Well, why has not the yard been finished? It has been some eight or ten years since the original bill for the establishment of that navy yard was passed, and why has it not been finished? The reason is that it has been found to be impracticable. So soon as the excitement, under which the bill got through both Houses of Congress, passed away, it was found to be an act of folly on the part of the Government to establish a navy yard , or at any other point, away from the sea-coast. Then it was agreed that we might well establish a rope-walk

at Memphis. There was something in that, I admit it, and I am willing to make the necessary appropriation for the establishment of a place there to make rope; to make sails if you please.

Mr. BELL. I wish to know if the honorable Senator from Missouri and the honorable Senator from Maryland, supported the original proposition?

Mr. PEARCE. I always opposed it.

Mr. ATCHISON. I believe I voted for it, but I will explain that matter.

Mr. BELL. And yet the Senator from Missouri, a western man, denounces it now.

Mr. ATCHISON. I will explain that, as the Senator requires an explanation. There were two gentlemen from Tennessee at that time—one a member of the Senate and the other a member of the House of Representatives—the one a whig, and the other a democrat—candidates for gove'nor of Tennessee.

Mr. JONES. Who were they?

433 Mr. ATCHISON. Brown and Foster. They were candidates for gove'nor of the State of Tennessee. One would say to his whig friends, "If you will give me this appropriation for a navy yard at Memphis, I think I can triumphantly carry the State." (Laughter.) The other would go to his democratic friends and tell them, "Unless you give me the navy yard at Memphis I shall certainly be defeated." (Renewed laughter.) Under this state of things what could either whig or democrat do? We were under a kind of duress. We were bound to vote this appropriation in both Houses. But, Mr. President, it seems to me that the proposition made by the Senator from Maryland is the only true one; to strike out the appropriation, and cede the land and works to the State of Tennessee.

Mr. GWINN. I hope we shall have a vote on the amendment.

Mr. JONES, of Tennessee. My friend from California must pardon me if I detain the Senate for a few moments. He will very well see that I cannot do less. If the honorable Senator from Missouri lent himself to that sort of political bargain and intrigue between Foster and Brown, and suffered himself and the Government to be mulcted in this way, I have no fault to find with him, but the facts remain the same. Whatever Mr. Foster and Mr. Brown may have said to their party friends to induce them to vote for the original appropriation, I will not permit myself to believe for a single moment that the honorable Senator from Missouri lent himself to vote money simply to subserve the purposes of either of those gentlemen as candidates for office in Tennessee. I

434 will not allow myself to think that.

But when we go back to the facts, they stand as I have stated them, and it is simply a question whether this Government will carry out this work or abandon it. I say to you in all frankness, you had better abandon it than go on as you have done, and unless you mean to carry out, in good faith, the contract you have made, you had better cede the land to us at once. The Senator from Missouri says he is willing to vote for a rope-walk there. He voted for the original proposition for a navy yard. He complains that no boats have been built there, and yet refuses to give us the means of building vessels; and after the Government has converted it into a rope-walk, and has the machinery and houses, and everything necessary, except the money to buy the hemp, he stands still and will not even vote that. His consistency, I think, is a very strange thing. I hope he will remember his own vote, and for the sake of Brown and Foster, will carry out his project, and at least permit us to have a rope-walk, if he will not allow us to build vessels.

Mr. STEWART. Call the yeas and nays on the amendment.

And they were ordered; and, being taken, resulted, yeas 15; nays 24; as follows:

Yeas, Messrs. Bell, Benjamin, Dawson, Foot, Gwinn, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Rusk, Seward, Thomas of New Jersey, Wade, and Weller—15.

Nays: Messrs. Allen, Atchison, Bayard, Bright, Brown, Butler, Case, Chase, Clay, Dodge of Wisconsin, Dodge of Iowa, Evans, Fessenden, Gillette, Houston, Hunter, Pearce, Pratt, Rockwell, Stewart, Sumner, Thompson of Kentucky, and . —24.

So the amendment was rejected.

THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS et al. } 1410. N. R. D.

Deposition of George W. Duvall, taken by consent of parties, at the office of Hieskell, Scott & Hieskell, No. 20 Madison street, Memphis, on Thursday, Oct. 10th, 1867.

The witness, being duly sworn, deposeth as follows:

By complainants' counsel:

Inter. 1st. Please state your age, and present residence.

Ans. I am forty-five years old, and reside in Memphis.

Ques. 2d. Were you ever connected with what is called the Memphis navy yard? if so, when did you first become connected with it, and in what capacity; and what were your opportunities for knowing what was done there by the U. S. Government between the years of 1845 or '6, and 1854?

Ans. I was connected with the U. S. navy yard. I was attached to it in the year 1846 as secretary to the commandant. Being in that office, I became aware of all work under contract while I was connected with it; and after leaving it I bought into the Wharf-boat Company in this city, and prosecuted that business for many years, being acquainted with Capt. Nicholson, Capt. Shields, Capt. Platt, and other officers connected with the yard; after I left it, I frequently visited it, and know much of the work done in it.

437 Inter. 3d. Did you visit it often enough during the time between the period when your official connection with it ceased, and the year 1854, to know exactly what erections were made on these grounds, and what work was done there by the employees of the Government?

Ans. I might not know exactly all the work that was done there, but I know pretty much all that was done, and I know pretty much all the buildings that were placed on the grounds.

Ques. 4th. What was being done to the grounds when you first became connected with it in 1846? and state what buildings were put up.

Ans. When I first came to the yard they were excavating; digging the ground east of the vertical wall down some 8 or 10 feet, and driving piles for foundations on Wolf River. Then the vertical wall was commenced and completed; then there was a saw mill placed upon the bank of Wolf, on the north side of the yard. After completing it, or nearly completing it, when it was up two stories, (it was built of granite or stone,) it was lost by caving in, the foundations giving away. Then they commenced the rope-walk, and went on and finished it; it was

about fourteen hundred and seventy feet in length. It was built after 1846, I think in 1847 or '8. Then there was a tarring-house put up right in front of the rope-walk—due south of it; then there was a com-
438 mandant's house built, above the vertical wall, and east of Promenade street; an office for officers was built about the centre of the yard; then there was a brick building put up west of the tarring-house; it was built, I presume, for a place of storage. I do not recollect of any building being put up for a blacksmith shop; but there was a blacksmith shop put up in the rope-walk building, but it was after the city had received it back, I think. To the best of my recollection, they had no buildings for heavy work; no foundaries that I have any recollection of; such heavy work is not found in navy yards, except those that are prepared for building vessels; in such yards they are used. There was no machinery in this yard except for making rope. While I was connected with the yard there were no labourers employed in the yard, except day-labourers, and the vertical wall was let out to contractors. The day-labourers were used as carters, working at excavating; all the heavy work was done contractors, who kept their own time with *with* their own men.

Ques. 6*th*. Was there any machinery at all, at any time brought to this yard, from 1846 to 1854, except for making rope.

Ans. I don't know of any; I was frequently at the yard during this time, and if ever there was any other machinery, I have no
439 recollection of it. I think Capt. Platt was the last officer in connection with the yard, and I visited him frequently; there was none there then. After the U. S. Government gave it up, I had the contract for shipping away what rope was at the yard. This was somewhere in 1854 or 1855, I don't know the exact date.

Ques. 5th. What did you find in the way of machinery or material at the yard, when you took the contract to ship away the rope?

Ans. The machinery of the rope-walk was there, for making rope, spun yarn, and marline, and there was some 1,700 coil of rope there, which was delivered out to me to ship to Charlesto'n navy yard, Boston. There was no other machinery that I know of. That machinery was taken out and sold by the Government. The rope was the only material there was there.

Ques. 6th. Was there, at any time during the period from 1846 to 1854, any supplies for vessels of war or other naval stores brought to this yard; or was the yard put in a condition in any respect for constructing naval vessels or vessels of war, or repairing such vessels, or supplying them with necessary equipments or outfits?

Ans. None that I know of; no, sir; the yard was not put in condition for any of these purposes.

Ques. 7th. You say, none that you know of, when speaking of
440 supplies of vessels of war or naval stores. Had there been, were your opportunities such that you would have known of it, if they had been brought to this yard?

Ans. Yes, sir; I should have known it if there had been anything of that sort.

Ques. 8th. Did Commodore Lavalette have command while you were connected with the yard; and what was the feeling towards him entertained by the populace during his official connection with it; and if any hostility to him, what was the cause?

Ans. Yes, sir, he had command; there *was* some property owners at the upper end of the town who were dissatisfied with him because

Mr. STEWART. Call the yeas and nays on the amendment.

And they were ordered; and, being taken, resulted, yeas 15; nays 24; as follows:

Yeas, Messrs. Bell, Benjamin, Dawson, Foot, Gwinn, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Rusk, Seward, Thomas of New Jersey, Wade, and Weller—15.

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Inter. 1st. Please state your age, and present residence.

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Ans. I was connected with the U. S. navy yard. I was attached to it in the year 1846 as secretary to the commandant. Being in that office, I became aware of all work under contract while I was connected with it; and after leaving it I bought into the Wharf-boat Company in this city, and prosecuted that business for many years, being acquainted with Capt. Nicholson, Capt. Shields, Capt. Platt, and other officers connected with the yard; after I left it, I frequently visited it, and know much of the work done in it.

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Ans. When I first came to the yard they were excavating; digging the ground east of the vertical wall down some 8 or 10 feet, and driving piles for foundations on Wolf River. Then the vertical wall was commenced and completed; then there was a saw mill placed upon the bank of Wolf, on the north side of the yard. After completing it, or nearly completing it, when it was up two stories, (it was built of granite or stone,) it was lost by caving in, the foundations giving away. Then they commenced the rope-walk, and went on and finished it; it was

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Ans. Yes, sir, he had command; there *was* some property owners at the upper end of the town who were dissatisfied with him because

he reported to the Department that a good foundation could never be obtained for a navy yard, and that it was an improper site, and that the site should have been selected at Fort Pickering, where there was a good foundation. These parties one morning instigated the Irish workmen to mob the commodore, but he did not come down that morning.

(Objected to by def'ts' sol.)

Ques. 9th. Do you know when the "Alleghany" was anchored out in front of the navy yard, and what was done to her?

Ans. Yes, I recollect the "Alleghany," built up the river at Pittsburg, I believe, came down and anchored off the city. She was an iron steamer, bark rigged. When she came here she took off everything she had aboard for her fitting out, stores, &c., placed them in flats and
441 sent them ashore. That was done for the purpose of taking out the decks. These decks were made of iron, and they became so much heated that you could not stand upon them. And they were taken out for the purpose of putting in wooden ones in their place. The iron decks were taken out and wooden decks substituted in their place. All the rigging, masts, &c., were put up by the workmen, or men of the "Alleghany," consisting of the crew.

Ques. 10th. Where did this rigging, masts, &c., come from?

Ans. They were brought down on the "Alleghany," at least I think they were; they were all with her when she arrived here. I saw her when she came in. She was dismantled by her own crew, and rigged again by her own crew. When a vessel is laying to, it is dismantled when any repairs are to be done.

Ques. 11th. Were any other repairs or outfit placed upon her, except the insertion of the wooden decks?

Ans. None that I know of.

Ques. 12th. Where were those wooden decks procured, and who did the work; were there any ship-carpenters at the yard at that time, or any material there for the construction of wooden decks?

Ans. There was no material that I know of fit for this purpose at the navy yard; and the work was done by ship-carpenters and me-
442 chanics belonging to the city. This is to the best of my recollection. There were no ship-carpenters or mechanics attached to the yard at that time. I know that when we wanted a flag-staff constructed for the yard, we *we* had to send off into town to get carpenters to make it. I don't know where the timber was got for the decks, but presume it was procured from parties outside of the yard.

Ques. Was this yard ever at any time put in a condition for any other purpose than that of a rope-walk, and was it ever properly completed for that purpose?

(Excepted to.)

Ans. Not that I know of; no, it was not even completed for that purpose. The tarring-house was not properly completed. A tarring-house belongs to a rope-walk, and is constructed for tarring the rope.

Cross-examination of George W. Duvall, by def'ts' council:

1st x-ques. How long did your official connection with the Memphis navy yard continue?

Ans. I may say only for a few months. I can not say exactly.

Ques. 2d. What duties did you perform as secretary of the commandant?

Ans. I made up all the accounts and estimates generally of the expenses and probable amounts that might be wanted for the coming months.

I made reports of am'ts expended, &c., to the Chief of Bureau of
443 Yards & Docks at Washington.

3d x-ques. Please state, as near as you can, how often you visited the navy yard per annum, after your official connection with it ceased?

Ans. I do not know how often, but I was frequently at the yard.

4th x-ques. What was the objects of these visits. Were they mere social visits?

Ans. These visits were to the officers of the yard; social visits, you might term them.

5th x-ques. Do you pretend to be able, from these mere visits to the navy yard, and after this long lapse of time, to state in detail all the work that was done at the navy yard?

Ans. No, no; I could not state in detail, the work that was done. I do not pretend to do that.

7th x-ques. Was there not a coal depot in the navy yard?

Ans. Not to my recollection. I do not think there was such a one as we term coal depots for vessels. There was one for the rope-walk.

8th x-ques. In your answer to 5th question-in-chief, you say "there was no machinery in the yard except for making rope." Do you mean to say positively that there was no machinery (with the exception stated) in the yard, from its establishment to its abandonment, or do you only refer to the time while you were connected with it?

Ans. There was no other heavy machinery but that; you may call those pile-drivers, blacksmith shops, &c., machinery.

9th x-ques. Do you know, of your own personal knowledge,
444 that, between the time when the navy yard was given up and your taking possession for the purpose of shipping the cordage, &c., to Boston, nothing in the way of machinery and materials were removed from the yard.

Ans. I stated that the machinery was in the yard at the time the cordage was shipped—I mean the machinery for the rope-walk.

10th x-ques. Were you in the naval service; if so, how long?

Ans. I was some 12 years in the naval service before I came to Memphis. I was attached to the naval store at Pensacola, and subsequently secretary to the commandant.

12th x-ques. When, in your answer to 6th question-in-chief, you say "None that I know of," you do not mean to state, as a fact, that, between 1846 and 1854, there were no supplies for vessels of war or other naval stores brought to this yard, do you?

Ans. I mean to say there were no heavy supplies; none that I call naval supplies, such as ship-timber, anchors, chains, and spars, &c. There were some few bolts of duck, needles, sewing twine, &c., which were frequently used in the yard.

13th x-ques. How would you have known it if such supplies had been brought to this yard?

Ans. By my being frequently with the officers of the yard; by being in the yard occasionally, and feeling an interest in seeing the yard go on. I wanted to see it succeed, and I noticed it more particularly on that account.

445 14th x-ques. Do you undertake to swear that, during the 8 years from 1846 to 1854, there was no period of 6 months during which time you did not visit the navy yard?

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15th x-ques. Do you state that, during each visit to the yard, you examined the yard sufficiently to know whether any supplies had been brought there?

Ans. No; I did not say that I examined the yard for that purpose, for I did not feel it my business.

16th x-ques. How often were you on board of the Alleghany while she was opposite the navy yard?

Ans. I was there several times; I might have been there 20 times, and might not have been there 10 times.

17th x-ques. How do you know that the wooden decks were put in the "Alleghany" by her own men; did you know the men personally?

Ans. I did not say by her own men, but I said that it was done by carpenters employed from the city.

18th x-ques. Do you know, of your own knowledge, as a fact, that these decks were not put in by the workmen of the navy yard?

Ans. No; I don't know who put them in. To the best of my
446 recollection, they were employed from the city—Eversons, who *was* the only ship-carpenters here that I know of.

19th x-ques. You state, in your answer to the 12th question-in-chief, that, when you wanted a flag-staff constructed for the yard, you had to send to town to get carpenters to make it. Please state if this did not occur while you were connected with the yard in 1846?

Ans. Yes; I think it occurred in 1846, and that Mr. Everson built it.

20th x-ques. Was not a large quantity of rope made at the navy yard?

Ans. I gave the quantity, 1,700 coils, consisting of small heavy rope.

21st x-ques. Was not the navy yard under the jurisdiction and control of the U. S. from 1846 to 1854; and state what naval officers were in the yard and their respective duties?

Ans. I think it was under the jurisdiction and control of the U. S. during the period stated in the question. There was a commodore, a purser, two engineers, (topographical,) a surgeon, two or three post midshipmen, a clerk of the yard, and 4 commanders; at different times.

22d x-ques. State whether or not spun yarn and "marline" are regular naval stores, only used in the rigging and repairs of ships and sailing vessels, and say and describe what they are?

Ans. They are called naval stores. The marline is used on all kinds of vessels; it is needed for various purposes: for wrapping ends of ropes, for making eyelets, &c., and for such purposes & for strapping blocks.

447 Re-examination:

(See question first, bottom next page.)

Question 1st. Please state your reasons for saying that the materials which was used for placing the wooden decks upon the "Alleghany" was not procured at the navy yard, and that the carpenters who did the work could not procure it there?

Ans. I know that the navy yard had not laid in supplies and materials for fitting out vessels. There were no materials for that purpose that I could see when the Alleg'any came from Pit'sburg, where she was built. I also know there were no ship-builders attached to the yard and on the rolls of the same at that time. I was well acquainted with the operations of the yard, and visited frequently, though not connected with the yard at that time. I learned this from conversations had with the clerk of the yard and other officers.

Ques. 2d. Was there any other work done in the yard of any consequence except what you have enumerated in your examination-in-chief?

Ans. None that I am aware of.

Ques. 3d. What quantity of other supplies you speak of in cross-examination, viz, duck, needles, sewing thread, &c., were there brought to the yard, and what do you mean when you say, "They were frequently used in the yard?"

Ans. The quantity of small naval stores brought to the yard, such as enumerated before, were very inconsiderable in amount, and certainly were not intended for the supply of vessels, but for use in the yard itself.

448 Question 4th. How did it happen that an officer of the rank of commodore had any connection with the yard; who was that officer, and how long was he connected with the place; what rank of officer was the highest in command required by the Naval Department for such a place?

Ans. I believe the Department ordered an officer of high rank, as the first officer attached, to use his experience as to proper sites, &c., and I believe there existed some doubt at the Department about this one selected being a good one for the purpose. Hence I think this was the reason for sending an old experienced officer. Commader E. A. F. Lavalette was the officer first appointed to command the yard. He remained but a few months, for when the Mexican war broke out he made application for a Pacific squadron. In accordance with the application he was given the frigate Congress as his flag-ship, the sloop of war Portsmouth, and other vessels, and sailed for his station. Commanders in rank are usually assigned stations such as this, and an officer of higher rank was ordered here after the commodore left.

Ques. 5th. What is the difference in rank between a commodore, a commander, and a captain?

Ans. A post captain was, at that time, the highest rank known in the Navy, and were addressed by the Department as captains. Commodore is the name given to post captains who have had com-

449 mand of squadrons. Commanders are of rank above a lieutenant, and between that rank and post captain.

Ques. 6th. Would not the marline and spun yarn be used in a little craft and on a steamboat, or on any vessel that used ropes?

Ans. All vessels of any description use them, including steamboats. And further saith not.

GEO. W. DUVALL.

Sworn to and subs' before me, Dec. 18th, 1867.

R. J. BLACK,
D. C. & M.

450 (Indorsed:) No. 1410. Thomas Murdock & others vs. The Mayor & Aldermen of Memphis. Deposition of Geo. W. Duvall. Filed Dec'r 18th, '67. A. Alston, C. & M.

451 In chancery, at Memphis.

THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & OTHERS. } No. 1410.

Deposition of RALPH SEMMES, taken at the office of Heiskell, Scott & Heiskell, No. 20 Madison street, Memphis, by consent of solicitors of the defendants, on the 18th day of September, 1867.

The witness, being duly sworn, deposeth:

By compl'ts:

Ques. 1st. Please state your age, and your present residence.

Ans. I am fifty-eight years of age, or very near it, and my present residence is Memphis.

Ques. 2nd. Were you at any time in the naval service of the United States, or connected with the United States Navy; if so, at what time, for what length of time, and in what capacity?

Ans. I was in the naval service of the United States from the year 1826 up to the year 1861, and my grades during that time were from midshipman up to commander.

Ques. 3rd. From your knowledge of naval affairs, navy yards,
452 and naval depots can you state what things are necessary in a navy yard or depot for the purpose of building and repairing vessels of war? Please state whether a dry dock, or floating dock, or dock yard, or marine way, or marine railway are necessary to the building and repair of such vessels.

Ans. A floating dock, a dry dock, & marine railway *is* not necessary to the building of a ship-of-war, but are necessary to the repairs of ships-of-war below the water line. The ordinary repairs on the upper works of a ship might be effected without these aids. A dock-yard means a yard with a wharf or dock attached, in which ships lie whilst undergoing repairs.

Ques. 4th. Suppose the grounds contained the following works and improvements and no more, viz, a building for a rope-walk, containing the necessary machinery for making rope; buildings for foundry; buildings for a blacksmith shop; a store-house; office, and commandant's house, and some buildings for operatives—suppose these were all the works or improvements, would the navy yard contain those things that were proper for the construction and repair, the accommodation and supply of vessels of war? If not, please state what would be necessary for the accomplishment of these objects.

453 Ans. The navy yard would not, in my opinion, contain all that was necessary to the construction and thorough repair of ships-of-war. Besides the conveniences mentioned there should be dry docks, timber sheds, timber docks, carpenter and shipwrights' shops, boat sheds, sail-lofts, boiler and machine shops for steamers, coal depots, &c. As a navy yard so far from tide-water as Memphis, could only be designed for the construction and repair of steamships, shops and appliances for the construction of engines and boilers were of the first necessity.

Ques. 5th. What would, in your opinion, be necessary in a navy yard for the proper "accommodation and supply" of vessels of war? Please state, in detail, what a navy yard should contain to accomplish this purpose.

Ans. To "accommodate and supply vessels" of war, exclusively of construction and repair, there should be ample store-houses, well supplied with cordage, anchors, boats, sails, provisions, and gunners', carpenters,' boatswains', and sail-makers' stores generally, consisting of a great many articles which it is impossible to name from memory without the assistance of schedules or "allowance books." There should be ample powder magazines, well supplied with powder, and the various preparations of powder, coal depots, &c.

454 Ques. Please state if you have examined the act of Congress of June 15th, 1844, in reference to the location of a naval depot at Memphis. If you say you have, will you then please state from your knowledge of naval affairs, depots, & yards, whether or not a yard which contained only these things mentioned in E. H. Porter's deposition, taken in this case, (& state if you have read it,) would be in any proper sense finished in compliance with the object set forth in that act, or if the

construction of these works alone would, in any just sense, approach a fair compliance with that purpose.

Ans. I have read the act of Congress of the 15th of June, 1844, referred to, and I have also read the deposition of E. H. Porter, and, in my opinion, the navy yard at Memphis was not finished in compliance with the objects set forth in that act, nor was there any approach to a fair compliance with those objects.

Ques. Please state if you have visited and inspected the principal naval depots in the United States, and also if you have had an opportunity to inspect any of the large naval depots in Europe.

Ans. I have visited and inspected the principal naval depots in the United States, and visited, but not very narrowly inspected, naval depots in Europe.

455 Examination-in-chief continued:

Ques. Please to state what amount of expenditure would have been required to carry out the original scheme of the Government as to a navy yard and naval depot as exhibited in the act of 1844 above referred to.

Ans. Probably half a million of dollars, at least.

Ques. Suppose improvements upon the ground had been appropriated by the United States for a rope-walk; could they in any proper sense be said to have been appropriated by the United States as a naval depot; can a rope-walk be properly called a naval depot; or are the terms in any proper sense convertable?

Ans. A rope-walk is certainly not a naval depot, though a rope-walk might, and sometimes does, form an adjunct to a naval depot. A naval depot is a place of resort for ships, where they are supplied with provisions and other necessaries, and where they are usually docked and and repaired. Such depot is also frequently a building yard.

456 Cross-examination by defend't:

Ques. 1st. Did you know the "Alleganey," mentioned by E. H. Porter in his deposition? If so, state what kind of vessle she was, and of what importance.

Ans. I know the Alleganey by reputation; she was an iron steamer, built at Pit'sburg on a new plan of propulsion, invented by L't Hunter, of U. S. Navy; she was a ship-of-war, and was rated, I believe, 3rd class.

Ques. 2nd. State what is understood, in naval parlance, by "fit'ing out a vessel," and what it includes.

Ans. Fitting out a vessel means supplying the hulk with everything she needs to render her fit for service at sea, to wit, spars, cordage, sails, boats, anchors, chain cables, stores of all kinds for the boatswains', gunners', & sail-makers' department, guns, am'unitions, &c., &c.

Ques. 3rd. Do not some navy yards contain appurtenances & conveniences which are not found in others, or do all navy yards include and contain identically the same things?

Ans. They do not always contain the conveniences and appur-
457 tenances; but all building & equipping yards must contain the essentials for these objects.

Ques. 4th. Would you consider the Memphis navy yard, which contained all the things enumerated by Porter, and which fitted out the "Alleganey," and was under the jurisdiction of the U. S., and under control of a naval officer, as commandant, and other naval officers, such as surg'on, naval agents, &c., &c., for some years, appropriated to the purposes of navy yards? If not, what would you consider it?

Ans. It was undoubtedly a navy-yard, but it was not such a yard as was contemplated by the act of Congress of the 15th of June, 1844.

Ques. 5th. If machine shops and coal depots were added to the other things, said by Porter to be contained in this yard, would it add to the dignity of a navy yard, and increase the ability to supply and fit out vessels?

Ans. It would.

Ques. 6th. Could not vessels of some classes be accommodated & supplied, tho' not so conveniently and fully, without all the arti-
458 cles mentioned in your answer to 5th question-in-chief?

Ans. Vessels of war generally, whether sailing ships or steamers, require pretty much the same articles for their equipment, the only difference being that smaller ships would not require them in such quantities.

Ques. 7th. Do you not understand from E. H. Porter's deposition that the "Alleganey" was supplied at the yard at Memphis?

Ans. Mr. Porter does not himself state the extent to which the Alleganey was equip'ed, and of course I can not.

Ques. 8th. State if you know the rank and standing Pendergrast, Nicholson, & Lavalette?

Ans. They each had the rank of captain in the U. S. Navy, and their standing was that of excellent officers.

Ques. 9th. What was the rank of naval officers generally in command of navy yards?

Ans. That of captain; it was, I believe, the uniform custom to send officers of this rank to assume command of new yards being established as of old yard.

459 Ques. 10th. Did you have any personal knowledge of the Memphis navy yard?

Ans. I was in the navy yard for two or three weeks, in the year 1851, when Captain Nicholson was commandant, acting as a judge advocate of a court of inquiry. At that it was, I believe, nothing but a rope-walk, and even the operation of making ropes had not yet been commenced.

Ques. 11th. State the general condition of the yard then, and what was being done, &c., &c.

Ans. There were work-shops being built, and foundations being laid for landings and wharves. The machinery, or most of it, was in place for the rope-walk. There were the usual officers stationed there, a guard of marines, &c., and the usual etiquette and disciplin' of a yard were kept up & practised.

RAPHAEL SEMMES.

Oath of witness waived, and all formalities; exceptions to competency and relavancy reserved.

R. J. MORGAN, *Deft's Sol.*
HEISKELL, SCOTT & HEISKELL,
For Compl'ts.

460 Re-examination:

Ques. 1st. In question 4, on cross-examination, you are asked "Would you consider the Memphis navy yard, which contains all the things enumerated by Porter, & which fitted out the Alleganey, & was under the jurisdiction of the U. S., and under control of a naval officer as commandant, and other naval officers, such as surveyor, naval agent, &c., &c., for some years, appropriated to the purposes of a navy yard?

If not, what would you consider it?" To which, you answer, "It was undoubtedly a navy yard, but not such a yard as was contemplated by the act of the 15th June, 1844." Please state now whether or not, if the deed to this land had been accepted by the U. S. Government, and the jurisdiction of U. States established over it, and possession of the land taken by the United States, and such naval officers put in command of it as are required by the navy regulations for navy yards, and the etiquette and discipline established at the place, which is required in navy yards; if this had been done, without more, after the passage of act of June 15th, 1844, and upon the ground selected as the site for the Memphis navy yard, would you or not call this a navy yard?

Ans. I would consider it a navy yard. It would be so consid-
461 ered and designated by naval officers. But the qualification given in my cross-examination under question 4 still remains, to wit, that it was not such a navy yard as was contemplated by the act of Congress refer'ed to by me.

RAPHAEL SEMMES.

Consent that the deposition be read without exceptions, except as to competency, & oath waived.
Feb. 8th, 1868.

R. J. MORGAN,
For Def'ts.

462 THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & others.

Deposition of E. H. Porter, taken by consent at the office of Heiskell, Scott & Heiskell, No. 20 Madison street, on Monday, 2d day of September, 1847. To be read in evidence in behalf of the complainants.

Ques. 1st. What is your age, when did you first come to Memphis, and how long have you resided in the city?

Ans. I am sixty-three years old, and I first came to Memphis in 1834; I resided in Raleigh from 1834, to 1838, and since that time I resided in Memphis.

Ques. 3d. Are you acquainted with the grounds at Memphis, which the mayor & aldermen of Memphis conveyed to the U. S. Government for a navy yard, laying between Market and Auction streets, and bounded on the east by Chickasaw street, & on the west by the Mississippi River? If so, please state, if you know, what buildings the U. S. Government erected upon these grounds, and what other improvements they made there at any time?

Ans. I am acquainted with the grounds in question. The U. S. Government erected buildings for a rope-walk; buildings for a foundary; buildings for a blacksmith shop; a store-house; officers and command-
463 ant's house; I think some buildings for operatives; I am not certain about that, however. As to other improvements, they erected a wall at or near the foot of the bluff, built of stone, called the vertical wall; it had an iron fence, or railing upon it. They built a brick wall on the east side of the navy-yard grounds, and on the west side of Chickasaw street; this was a brick wall with a stone capping. There was a stone wall also, placed on the north and south side of Market street from Chickasaw street as high nearly as the grade of Market

street and extended as far west as to the point where Market street struck the grade of the navy-yard grounds above overflow. There was a wall placed on Auction street for a short distance west. The vertical wall above mentioned is upon the line of the west side of Promenade street.

Ques. 4th. During all the time the U. S. Government had possession of these grounds was there at any time any dry dock, floating dock, permanent dock, or any other sort of dock, (if there be any) connected with naval depots, constructed on these grounds, or in fact any where in Memphis?

Ans. There were no docks built by the United States Government or any one else on these grounds, nor has there been, anywhere in Memphis, any docks built that I know of.

Ques. 5th. Were there any marine railways or marine ways of any sort appropriate for building and repairing naval vessels constructed on these grounds, or anywhere contiguous thereto, during all this time.

464 Ans. No sir, there was not.

Ques. 6th. Were there any timber sheds suitable for the constructing or repair of vessels ever placed upon these grounds from the time the U. S. took them until they gave them up?

Ans. I think not.

Ques. 6th. What character of machinery did they have in these buildings you have spoken of?

Ans. They had a full sett of machinery for making cordage and rope in the rope-walk; I think the blacksmith shop was fit'ed up with forges and a blast; and with ordinary tools for blacksmithing. I don't recollect of any work ever being done in the foundary. There is very little in a foundary but a blast and a cupola. They ran the rope works some. I think there was a saw-mill started on that ground, but never completed. My recollection is that it was at the upper end of the grounds, or east of Wolf River. They had to have machinery for driving piles and repairing their works, but that was not permanent machinery belonging to the grounds.

Ques. 7th. Were there any other buildings or any other machinery placed upon these grounds by the United States Government except what you have enumerated.

465 Ans. I cannot recollect of any others. To the best of my recollection, what I have enumerated constituted all the buildings and machinery ever placed there by the U. S. Government.

Ques. 8th. What were your opportunities for knowing what work was done there by the U. S. Government?

Ans. I resided in Memphis and was frequently in the grounds, during the progress of the work.

Ques. 9th. Were there any vessels of any sort built at these grounds?

Ans. There never was anything like a naval vessel built there. They may have constructed some yawls or similar crafts, but I have no recollection that they ever did that.

Ques. 8th. You say they made some rope at the rope-walk; do you know what quantity; or the length of time rope was made in the rope-walk?

Ans. I cannot recollect the quantity, nor the length of time. The impression on my mind is, that the quantity of rope made there was very small. Very little more than sufficient to test the machinery.

Ques. 9th. Was there ever at any time any vessel fit for naval service repaired on these grounds?

Ans. There was not any vessel fit for naval service, ever repaired on these grounds. There was a vessel built at some point above
466 this, that was brought to this point and anchored out in the Mississippi River opposite to these grounds, and some fitting out was done upon her, but I do not now recollect exactly what it was. This is the only instance that I recollect of, of any vessel fit for naval service having anything done to it at these grounds. It is, to the best of my recollection, the only instance that ever occurred. This vessel was called the "Allegany."

Ques. 10th. Is the ground lying south of the point where Overton street strikes the vertical wall and west of the vertical wall, batture?

Ans. Yes, sir; it was the intention to place this vertical wall just as far west as it was possible to get solid ground for it to rest upon.

Ques. 11th. How much of this ground west of the vertical wall, and north of Overton street, is batture?

Ans. There is a small portion lying at the northeast corner of the ground west of the vertical wall that is not batture, but all the ballance of the ground mentioned in the question is batture.

Cross-examined:

Question. During the occupancy of these grounds by the U. S. Government, were they under the command and direction of a public officer?

Ans. They were—styled commandant of the navy yard.

Question. Were these improvements made at heavy expense to
467 the Government?

Answer. They were; the buildings of good quality & constructed at great expence. The machinery was frequently used for driving piles to make a foundation for the buildings; all of them except the commandant's house.

Question. Did the commandant & other officers occupy the buildings appropriated to their use?

Answer. They did.

And furthermore this deponent saith not.

ETHEL H. PORTER.

We waive all formalities in the execution of the deposition and the oath of the witness, saving only the question of the relevancy of the testimony.

Sept. 2nd, 1867.

R. J. MORGAN,
Def'ts' Sol.

468 (Indorsed:) No. 1410. Thomas Murdoch et al. vs. The Mayor & Aldermen of Memphis & others. Deposition of E. H. Porter. Filed Sept. 3d, '67. A. Alston, C and M.

469 THOMAS MURDOCH & OTHERS
vs.
MAYOR & ALDERMEN OF MEMPHIS & OTHERS.

Deposition of David Parkinson, James Ralston, & George L. Williams, taken by consent at office of Hieskell, Scott & Hieskell, Oct. 11th, 1867.

Question 1st. What is your rank, and on what duty are you at present, and how long have you been on this duty, and where is your office?

Ans. I am first lieut. 25 infantry, U. S. A.; I am post quartermaster at Memphis, Tennessee; I have been on this duty since January last; my office is in the navy yard.

Ques. 2d. Please state how the navy-yard grounds are used? In whose actual control and possession are they, and how long have they been?

Ans. The navy-yard grounds—a portion of them—are in the possession of the Government of the United States, and used for storing supplies and for quartering troops, and have been so used, to my knowledge, since some time in July, 1866. The portion lying west of Promenade street, with the exception of Christian's shed and ground on which a saw-mill stands, west Auction street, have been all in the possession of the Government, but some parts of it has not been actually occupied by the U. S. Government. Some parts have been empty a part of the time. Some other parties have been allowed to use a portion of it, but at the same time the possession of it has not been yielded by the Government to any other parties.

470

Quest. Has the U. S. Government during this time recognized any claim of the city to any portion of these grounds west of Promenade street (except Christian's shed and the saw-mill) during all the time you have been there, since July, 1866.

Ans. I should say not; but I don't know that the city has ever preferred any claim to it. Their claims to it would not have been recognized here if the city authorities had laid their claim before any of the officers at this post. I mean it would not have been recognized by any of the officers of this post.

Ques. Did the U. S. Government hold possession of this property exclusive of all other possession, and not admitting any other right or claim to it, since July, 1866?

Ans. Yes, sir; that portion of it which I have before described.

Cross-examined:

1st x-ques. Is the U. S. holding this property or claiming it for any other than temporary military purposes?

Ans. I do not know anything about the reasons why they are holding it, only they are holding it for their own use.

471

2d x-ques. Are the U. S. authorities holding it except for military purposes?

Ans. They are occupying it for military purposes at present.

3d x-ques. Have you, as an officer of the U. S., or any other officer in charge of this property, set up any claim to the title or absolute ownership of it?

Ans. Have not.

4th x-ques. Have you any authority, as a quartermaster, to assert title or to deny any other person title to the real estate which you occupy for encampments, store-houses, &c.?

Ans. No; I have not, as quartermaster, anything to do with the titles. In regard to the navy yard, I simply obey orders, not only as to titles, but as to oc'upancy.

Re-examined:

Ques. You were asked if the U. S. authorities were holding the navy-yard property except for military purposes, and you answered that they are occupying it only for military purposes at present. Do you mean to

be understood that the United States asserts no other claims to it except that of a temporary use for military purposes?

Ans. No, sir; I do not. I do not know what claim the U. S. sets up to it, only what I have heard. I have no personal knowledge of the character of their claims. I don't know, of my own personal knowledge, that they set up any claims to it except for military purposes, but I do not mean to be understood that this is the only claim they make to it. I do not know anything more than as to the actual occupancy of it.

472 Ques. Has the city been in possession or set up any claim to the possession of the part you have mentioned since July, 1866?

Ans. They have not been in possession & have not set up any claims to any possession to my knowledge, since July, 1866.

Ques. Has the U. S. Government paid the city any rents for this property since July, 1866; or since the occupation of the city in June, 1862?

Ans. It has not paid any rents since January 10th, 1867, to my personal knowledge, because I have been disbursing quartermaster since that time, and if any had have been paid I would have known it. I cannot speak from personal knowledge previous to that time, because I was not disbursing quartermaster previous to 10th Jan'y.

Ques. During the time you were disbursing quartermaster, did the city authorities, or any one representing them, demand any rent for this property? Have you any knowledge that they ever made any such demand previous to Jan'y 10th, 1867?

Ans. They did not. I have no knowledge that they ever demanded rent previous to that time.

Re-cross examination:

1st ques. Do you not know that the city has made its claims to the proper Department at Washington for the possession of this property & for rents?

Ans. I do not know, of my own personal knowledge, and
473 never heard that they had preferred any claim for rent at all.

2d ques. Should you have been the proper officer for a person who claimed the possession of this property, or rents therefor, to have applied to, considering your orders? Is not one of the Departments at Washington the proper place to apply for such purposes?

Ans. The Department at Washington was the proper place to apply for possession or for back rents. I would have been the proper person to apply to any time since I have been here for rents.

And further this deponent saith not.

DAVID PARKINSON.

Sworn to and sub. before me Oct. 11th, '67.

R. J. BLACK, *D. C. & M.*

Formalities waived and all exceptions, except as to competency & relevancy.

B. M. ESTES.

474 (Indorsed:) 771. N. R. D. Thomas Murdock et al. vs. Mayor & Aldermen of Memphis et al. Deposition of D. Parkinson. Filed Oct. 11th, '67. A. Alston, C. & M.

475 THOMAS MURDOCK & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & others.

Deposition of John S. Claybrook, taken, by consent, at the office of Morgan, Jarnagan & Frazier, on Monday, the 17th day of February, 1868. To be read in evidence on behalf of complainants.

Ques. 1st. Are you the same John S. Claybrook who was the executor of John Overton, s'r, deceased?

Ans. I am.

Ques. 2d. Please state if you were acquainted with the handwriting of E. Hickman, who was mayor of Memphis in 1844; and if you are acquainted with the handwriting of Jeptha Fowlkes; and, if so, look at the letter here shewn you, dated "Memphis, Tennessee, Sept. 3d, '44," and signed "very respectfully, your ob't serv't, E. Hickman, mayor, Dr. J. Fowlkes;" and also, the letter on the same sheet of paper, dated "City Hotel, Sept. 10th, 1844," and signed "very res'y, J. Fowlkes;" and also, a form of an agreement to convey, on 3d page of said letter, and state what part, if any, is in the handwriting of said E. Hickman, and what part, if any, is in the handwriting of Jeptha Fowlkes; and state your connection with said letter, and what you did in reference thereto. Mark the letter and exhibit to your deposition.

476 Ans. I am acquainted with the handwriting of both the said E. Hickman and Jeptha Fowlkes. All that part of said letter (which is now shewn me) from "Memphis, Tennessee, Sept. 3d, '44," to "your ob't serv't, E. Hickman, mayor," and also the words underneath, "Dr. J. Fowlkes," is in the handwriting of the said E. Hickman. All the balance of the writing on the sheet is in the handwriting of Jeptha Fowlkes, including the address on the back of the letter. "John S. Claybrook, esq'r, Hardiman's X Roads, Williamson Co.," is in the handwriting of said Fowlkes. The words erased on the back of the letter, "Doctor J. Fowlkes, Nashville," are in the handwriting of said Hickman. The word "Tenn." on the back is in the handwriting of said Hickman. My connection with the letter is that it was addressed to me by said Fowlkes, and I received it soon after it was written; and what I did in reference thereto was this: I forwarded an agreement as requested, the substance of which is set forth in the form given on the 3d page of the letter. I herewith file this letter marked, "Exhibit A, to John S. Claybrook's deposition."

Ques. 2d. Look at the letter marked "Exhibit B. to John S. Claybrook's deposition," and state in whose handwriting it is, and make it a part of your deposition.

Ans. It is in the handwriting of said Jeptha Fowlkes, and I herewith file it as a part of my deposition.

Ques. 3d. Please state if you executed & forwarded the deed as requested in that letter. State also, what consideration was expected in the deed. State whether one dollar of the consideration was ever paid to you or to any person else with your knowledge. State what was the main

477 consideration which moved you to execute the deed.

Ans. I did execute and forward a deed as requested, and embracing the boundaries set out on page 3 of "Exhibit B." My best recollection is, that a consideration of six hundred dollars was expressed on the face of the deed, but I never received one dollar of consideration myself, nor have I any knowledge that any other person ever did. I

forwarded the deed as requested, but to whom I do not recollect. The main consideration was the establishment and construction of a naval depot on the site, as was then contemplated by the act of Congress. This was the great consideration, as it was when the compromise deed of July, 1844, was executed, to which I lent an active aid, and know what was the understanding of all the parties interested at that time.

Ques. 4th. You say you were actively engaged in the compromise of 1844; please state now whether you know what was the understanding of all the parties, the mayor & aldermen included, as to the appropriation of the ground to the purposes of a naval depot?

Ans. I was a party to that deed, and was actively engaged in carrying it into execution, and I do well know what was the understanding of all parties to it, including the mayor and aldermen of Memphis, as to the appropriation of the grounds to the purposes of a navy yard. The appropriation meant by the deed, & so it was understood by all of us, was an appropriation as contemplated by the recent act of Con-
478 gress, and it was expressly understood that if the depot was not established as provided by that act, it was to go to Seth Wheatly, with the other property, for partition and sale. The sole purpose of the compromise deed was to enable the United States to construct the depot as they proposed to do by the act referred to; and it was with the understanding & belief that this would be done in good faith by the Government that the compromise deed was executed. It was urged upon the proprietors that the establishment of the navy yard in the manner expressed in the act, for the construction and repair and accommodation and supply of vessels of war, would increase the value of the property of the individuals ten times what its value otherwise would be.

Ques. Have you any interest in this property or in its recovery?

Ans. I have no interest in it or its recovery. It belonged, as I understood, to the devisees under the will, and as I understood the suits that might be brought for its recovery would have to be brought in their names, and not in my name.

Ques. Would any suit brought in 1854, or since, for its recovery, have to be in your name, as you understand it?

Ans. As I understand it, the whole interest passed out of me and became vested in the devisees under the will, and that I would have no connexion with it, technical or otherwise.

(The defendants except to those portions of the foregoing deposition which refers to the understanding of the parties to the deed of
479 compromise upon the ground that parol evidence is incompetent to explain the terms of the deed or the understanding of the parties thereto. They further except to those portions which state the understanding or opinions of the witness upon other points, & proceed to cross-examine the witness.)

Cross-examination:

Ques. 1st. Please state whether or not the establishment of the naval depot, at Memphis, caused the enhancement of the property of the city and the value of city property? State whether or not, after 1844 and up to 1854, the city prospered greatly, and grew in size and population rapidly?

Ans. Property in Memphis did increase in value, and the city improved more rapidly after the work commenced on the naval depot, but I do not think that was the only reason of its advancement; other causes operated, such as the general improvement of the surrounding country. After 1844 and up to 1854, the city did improve greatly, and increased rapidly in population.

Ques. 2d. Can you state of your own knowledge that the devisees of Judge Overton (your testator) never received the $600 of consideration, or any sum for the conveyance made by you?

Ans. I cannot state of my own knowledge whether the devisees of John Overton, dec'd, ever received the $600 of consideration, or any sum for the conveyance made by me, but I cannot now say to whom I sent the deed, but I presume to Mr. Brinkley, who lived at Memphis.

Ques. 3d. Is the endorsement upon the letter dated Dec'r 19,
480 '44, as follows: "J. Fowlkes, about town lots sold to corporation," in your handwriting, and was it made at about the time of its receipt; was it not considered a sale by you?

Ans. The endorsement refer'ed to in the inter'ogatory is in my handwriting, and I would say it was made about the time of its reception, as I have been in the habit of making such endorsements when I answered letters and filed them away; and I did sell some lots of my own to the corporation for the naval depot.

Ques. 4th. Please file a copy of John Overton's will, under which you acted in making this conveyance, and state under what clause or portion of it you acted in making this conveyance, and if you were authorized by that will to convey this property; also, state whether or not the devisees of Judge Overton have dissented from your action, or have acquiesed in the same?

Ans. I have not a copy of the will of Judge Overton, dec'd, with me, and cannot therefore file it. The clause in the will under which I disposed of the property, is in substance as follows: "I hereby authorize and empower my executors to sell and convey any of my real estate not specially devised, that they may think necessary." The property or real estate to which the above interrogatory refers, was not specially devised. I do not remember to have conversed with the devisees of John Overton, dec'd, upon the subject of this conveyance for many years, not residing in the same neighborhood, and of my own knowledge I cannot say they have dissented or acquiesced in the disposition of it.

481 Ques. 5th. Where have the letters been since your receipt of them, and which you file as exhibits to this deposition?

Ans. These letters have been in my office in a letter-press, in Williamson County, Tennessee, where I kept the papers and letters connected with my administration of the estate John Overton, dec'd.

Ques. 6th. State whether or not the party who drafted the deed of compromise had the act of Congress before him, or whether the deed was executed with reference to the specific provisions of that act as to the character of the navy yard or whether the object was to establish a navy yard without reference to the specified character of it?

Ans. It has been upwards of twenty years since the compromise deed was written, and I cannot remember all the particulars, but I do remember that Mr. Stanton was the draftsman, and I was present, taking part in arranging the terms and conditions of the deed, but what particular papers or acts of Congress he had before him I cannot now state from any distinct recollection, but I know that so far as I took any part in the transaction, it was a conveyance to the mayor and aldermen of Memphis for a naval depot; it was the principal consideration that induced me to sign the deed, and such a depot as was contemplated by the act of Congress.

Re-examination:

Ques. 1st. Do you mean in the last answer, on cross-examination,

482 to qualify in any respect your answer to question 4 on examination-in-chief?

Ans. I do not.

And furthermore this deponent sayeth not.

JOHN S. CLAYBROOK.

The oath of this witness was waived by M. B. M. Estes, sol. for respondents.

Exhibit A to Jno. S. Claybrook's deposition.

MEMPHIS, TENNESSEE, *Sept. 3d*, '44.

DEAR SIR: You will please see the proprietors and obtain their relinquishment to as many acres of ground on the north side of Wolf River as the Government may want, say 50 acres or more, at $20 per acre, which is understood to be the price at which it can be obtained; also, whatever lots they may own of the 24 which we are to purchase.

I have received your favor of the 29th ult.

Very respectfully, your ob't serv't,

E. HICKMAN, *Mayor.*

Dr. J. FOWLKES.

CITY HOTEL, *Sept. 10th*, 1844.

D'R SIR: Above see letter from May'r Hickman. You will see he sustains the vague opinion I had that land had been priced at $20. It has been my impression, someway received, that W. B. or W. Overton had given the city, and the city so signified and assured the U.
483 S. Government that they could have, as much or little as might be required of this land at $20 per acre.

They want a formal obligation that they can have, if wanted by the U. S., such lands and lots at some stipulated price, and a formal contract for it, conditioned that the Government, should it require it of them; fix the price what you will. Please execute such contract at some price, & the price can be adjusted hereafter. If any obligation rests upon W. B. or W. Overton, by former promise, they will do whatever they engaged to do, no doubt. Please do this promptly, have it duly witnessed, if convenient, acknowledged, and mail it without delay to E. Hickman and myself.

Very res'ly,

J. FOWLKES.

STATE OF TENNESSEE, *Williamson County:*

Know all me' by these presents, that I, John S. Claybrook, hereby agree to bargain, sell, & convey to the city of Memphis, for the U. S. Government, if required, fifty acres of land lying north & adjoining to that portion granted & sold the U. S. Government by the city of Memphis, at $40 p'r acre; also, lots No. 000 & 000, as designated on the plan of the town of Memphis, for the sum of five hundred dollars each.

The above obligation is given in the belief that the said property will be wanted and required for the naval depot recently established by Congress, at Memphis, and if so wanted, this obligation shall be binding and obligatory; and if not, null and void.

Given under my hand & seal, Sept. 10th, 1844.

You will see from above, what is the outline of what May'r Hickman wants done; draw it full & better, and forward instantly.

J. F.

484 MEMPHIS, TENN., *Dec.* 19, '44.

DEAR SIR: The U. S. Government, informs us through our attorney, V. D. Barry, that we must close all contracts for property, by taking deeds for the same to the mayor & aldermen of the city of Memphis, and then procure the opinion of the dis'ct attorney at Jackson, that all was regular & legal, and then they were prepared to act with energy & promptitude. We have been appointed a committee to procure the titles. We therefore apply to you, knowing the interest you take in the matter, and the intimacy of your knowledge with all the facts of our situation, and the necessity for prompt as well as correct action. We do not consider it necessary to dispatch to you a special messenger. We feel confident you will do all you can, and promptly, to further this enterprise and aid our exertions.

Execute the deed for the following lots: No. 13, 19, & No. 23, to John S. Claybrook. No. 11 was sold, it is said, to A. Bayless, but there is no conveyance from proprietors to said Bayless of record. No. 18, proprietors.

The quantity of land, lying between Wolf and the Mississippi, running with a line from Auction street, required is $29\frac{64}{100}$ acres, as surveyed by Col. Morrison. This land and y'r lots, price as stipulated in contract, is considered high. Dr. Shanks & Mayor Hickman state that Mr. Overton and Mr. Brinkley assured them that land should go at $20 per acre. This I mentioned when I took assessment last summer from you. I presume Mr. Overton will do exactly what he considers proper and just in the premises; if absent, make the deed, and enclose to some one here, with instructions to deliver by the payment of the consider-

485 ation to them for you; with an understanding, in the event of interruption of this work, that you are to repurchase it. We must ask you to take a corporation bond for the am't, at 12 mo's, bearing interest. The fund to be derived from the U. S. Government will be specially applied to these debts. The city is unable to advance the am't, and its improvements are consuming its revenue as it accrues. We leave the price to lots and the land to yourself; we must give whatever you ask; we are, however, satisfied you and Mr. Overton will do what you consider proper and liberal.

Prepare the deed for registration; return without delay; we wish instantly to dispatch the papers to Washington City, after examination by M. Corry. We hope you will not lose a single day.

Very respectfully, your ob't s't,

D. LOONEY,
JEP. FOWLKES,
Committee.

Beginning at a stake on the west bank of Wolf River *at a stake* on a line with the north side of Auction street; thence with s'd line of s'd street, north 79½ west 22 chains & 25 links to a stake at low-water mark on the east bank of Miss'i River; thence with the meanderings of the river at low-water to the intersection of Wolf with Miss'i River; thence up the west bank of Wolf at low-water mark, with its meanderings, 25 chains 94 links, to the beginning; containing $29\frac{64}{100}$ acres.

From—

D. MORRISON,
Surveyor & Engineer.

486 (Indorsed:) 1410. R. D. 771. H. D. Thomas Murdoch & others vs. The Mayor & Aldermen of Memphis & others. Deposition of John S. Claybrook.

487 THOMAS MURDOCH & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & others. } 1410. N. R. D.

P. A. HARDY & OTHERS
vs.
JOHN NELSON & OTHERS. } 1362. N. R. D.

Interrogatories to be propounded to James B. Lattimer, of Baltimore, Maryland, and Robert Mickle, of Baltimore, Md., in the above causes on behalf of complainants:

Ques. 1st. Did you know William Winchester, the elder, of Baltimore; if so, about what time did he die, and what children did he leave, and what were their names? if any one of his sons were dead at the time of his death, state what heirs he left.

Ques. 2d. What was his wife's name and what time did she die?

Ques. 3d. If you say two of his sons were named William and George, state if either or both of them are dead; If you say one of them is dead, when did this one die, and what children did he have, and which of the children are now living? State names and place' of residences.

Ques. 4th. Was Lydia Moore one of W'm Winchester's, the elder's, daughters? Is she living or dead; married or unmarried? Answer the same questions as to Mary Armour, Catherine Welling,
488 Rebecca Campbell.

Ques. 5th. If any of the above daughters are dead, state what children they left, their names, their present place of residence, how long they have resided there; who of the daughters (if you say any of their children were daughters) were married; when were they married; are their husbands still living; if not, what time did they die? Are any of their sons or daughters dead; if so, their names, when did they die; what children did they leave; give their names and places of residence; who of them are married or unmarried; who of them are dead? The object of this question is to show exactly who are the de'cendants now living of these four daughters, Lydia Moore, Mary Armour, Catherine Welling, and Rebecca Campbell.

Ques. 6th. How many children did David Winchester (the son of William Winchester) leave at the time of his death? State their names; who of these children are dead; did they die intestate and without issue; if not, what children did they leave? If you say any of the children of David Winchester are living, state where they live; state if any of them are daughters, and if so, are they married or unmarried; are their husbands living; if not, when did they die?

Ques. 7th. How many children did George Winchester (son of William Winchester, the elder,) leave at the time of his death; give their names? Did the daughters marry; if so, whom, and at what time? are their husbands still living; if not, when did their husbands die? Are these children of George Winchester all living; if not, who of them are dead; when did they die? Give the present place of
489 residence of those living, and state how long they have resided there.

Ques. 8th. Did Lycurgus Winchester (son of William, the elder,) die intestate and without issue, or not?

Ques. 9th. When did Samuel Winchester, (son of William Winchester, s'r,) die? What heirs did he leave? If one daughter, did she marry;

if so, whom did she marry; is she and her husband living or dead; if dead, did they leave children? When did W'm Winchester, (son of William Winchester, s'r,) die; what children did he leave; give their names, places of residence; how long they have resided there; if any of them were daughters, when did they marry, and whom; are the husbands still living; are any of the children of William Winchester, j'r, dead; their names; when did they die; did they die intestate and without issue; if they left issue, state their names.

Ques. 10th. When did Charles Winchester, (son of William Winchester, s'r,) die; did he leave issue; what were their names; are these children living or dead; who of these are dead; when did they die; did such as are dead die intestate and without issue; if the living one is a daughter, is she married; when did she marry, and where does she reside; if she has been twice married, state the times of both marriages; is the husband of the last marriage still living?

Ques. 10th. If anything has been omitted in previous questions to call forth an answer as to who are the now living de'cendants of William Winchester, s'r, of Baltimore, you will please answer as far
490 as you have knowledge or information derived from the family, as full as if specially inter'ogated.

HIESKELL, SCOTT, & HIESKELL,
Sol. for Compl'ts.

STATE OF TENNESSEE, *Shelby County:*

I, Augustin Alston, clerk & master of the chancery court of Memphis, certify that the foregoing pages are a full, true, and perfect copy of inter'ogatorie' as filed in my offiee Sept. 3d, 1867.

Witness my hand & seal of office, at office in Memphis, this 14 day of September, 1867.

A. ALSTON, *C. & M.*

491 In chancery court of Memphis, Tennessee.

THOMAS MURDOCH & OTHERS
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & others.

PIERRA A. HARDY & OTHERS
vs.
JOHN NELSON & OTHERS.

Deposition of Robert Mickle and James B. Lattimer, witnesses for complainants in the above causes, taken upon inter'ogatories on the twentieth day of September, A. D. 1867, at the office of James B. Lattimer in the city of Baltimore, State of Maryland, no one being present on the part of either complainants or defendants.

The said witness, ROBERT MICKLE, being first duly sworn, deposes as follows:

To the 1st question he answers and says: I remember having frequently seen William Winchester, of Baltimore, formerly president of the Union Bank of Maryland. I think he died about the year 1812. The only children of William Winchester known by me personally, were William, George, Charles, and Lycurgus. William died about the year 1865. George about the year 1842. I have no recollection of the time

of the death of the other sons. I do not know if any of the sons died before the father died.

To the 2d ques. he answers and says: I do not know his wife's name or time of her death.

492 To the 3d ques. he answers and says; William and George are both dead, as stated in my answer to previous question. The children of William living are James, George, William, and Elizabeth, now Mrs. Frank Donalson. James and Elizabeth live in Baltimore. I do not know the residence of the others, and only speak of those living, from information derived from other parties. George Winchester left four children, all of whom are now living in Baltimore—Andrew Park Winchester, John Marshall Winchester, Mary T., the wife of Wm. A. Moale, and Elizabeth C., the wife of Dr. Murdoch.

To the 4th question he answers and says: I know nothing, except of Mrs. Rebecca Campbell, who is dead.

To the 5th question he answers and says: Rebecca Campbell left two children who are now living, and have always lived in Baltimore: James Mason Campbell and Mary, now Mary Murdoch, wife of Thomas Murdoch; I don't know when she married; her husband is still living.

To the 6th question he answers and says: I know nothing.

To the 7th question he answers and says: George left two sons and two daughters, viz, Andrew Park, John Marshall, Mary T., now the wife of William A. Moale, and Elizabeth C., the wife of Dr. Murdoch. I don't know when the daughters married. The husbands are living. All reside in Baltimore, and have always lived there except for short periods.

To the 8th question he answers and says: I do not know.

493 To the 9th question he answers and says: I do not know as to Samuel. I refer to my answers to first and third questions as to William.

To the 10th question he answers and says: I do not know.

To the 11th question he answers and says: I have no further knowledge.

R. MICKLE.

The said JAMES B. LATTIMER, being first duly sworn, deposed as follows:

To the 1st question he answers and says: I knew William Winchester, (the elder,) of Baltimore; he died at Baltimore in 1812. He left the following-named children: Lydia Moore, Mary Armour, Catherine Welling, Rebecca Campbell, William, George, David, Charles, and Lycurgus Winchester. One of his children, the late Judge James Winchester, who died prior to the death of the said William Winchester, left two children, Samuel and Annie. Samuel died some years ago, never having married. Annie was married to Jessee Willis and is dead, leaving no children. Her husband is also dead.

To the 2d question he answers and says: William Winchester's wife's name, I think, was Park. She has been dead many years.

To the 3d question he answers and says: William and George Winchester, sons of William, the elder, are both dead; the
494 former died about 1865, the latter about 1842. William left four children, all of whom, I believe, are now living. James, George, William, and Elizabeth, who is now Mrs. Donaldson, lives in Baltimore. George lives in Tennessee, and William in California. George also left four children, viz, Andrew Park, John Marshall, Mary T., married to William A. Moal, and Elizabeth C., married to Dr. Murdoch. They all reside in Baltimore.

To the 4th question he answers and says: Lydia Moore, one of the children of William, the elder, died years ago. I am unable to say how long. She left one daughter. Mary Armour, Catherine Welling, and Rebecca Campbell are all dead some years since. Mary Armour left two children; Rebecca Campbell left two children; and Catherine Welling left a number of children.

To the 5th quest. he answers and says: Lydia Moore left an only daughter, named Maria, who was married to David Armour. Mary Armour left an only daughter, whose name was Janet, married to Mr. Lake, and a son named James Armour, who died some years ago, leaving several children, whose names I do not recollect. Catherine Welling left several children, three of whom I recollect. William Welling, a daughter, Elizabeth, and a son named James W. Welling. William Welling is living now in Howard County, Maryland. Elizabeth and James W. are dead. I have knowledge of the family or children left by Elizabeth; she intermarried with Levi Young, and left several children. James W. Welling left one only daughter, named Mary. I have understood she is alive. The only child of Lydia Moore, Maria, who
495 married David Armour, left two children, a daughter named Lydia, married to George Jenkins, now living in Baltimore County, and a son named William Armour, living in Tennessee, as I understand. Rebecca Campbell, (the daughter of the elder William Winchester,) left two children, James Mason Campbell, attorney at law, and Mary, married to Thomas Murdoch, all living in Baltimore now. David Winchester, son of the elder William, died some time ago, I am unable to state when, leaving four children, two of whom named George, and Burrell, are now dead; they died unmarried and without issse. Charles Winchester, another son of William Winchester, the elder, died in December, 1824, leaving a widow with three children. One of the children named Lycurgus died some years ago, never having married. Elizabeth another of the children died some years ago never having married; and Mary the only survivor of the three children left by Charles Winchester, has been twice married. The name of her present husband is Slocum, they are at present living in Virginia.

To the 6th question he answers and says: I have stated in my previous answers, all the knowledge I have of the family of David Winchester, the son of William Winchester, the elder.

To 7th question he answers and says: George Winchester left four children—two sons and two daughters—Andrew Park, John Marshall,
Mary, and Elizabeth; the three first named by his first wife
496 and the last by his last wife. They are all living in the city of Baltimore at this time. Mary intermarried with W'm A. Moal, and Elizabeth with Dr. Murdoch. They and their husbands are now living in the city of Baltimore.

To 8th question he answers and says: Lycurgus Winchester, son of William Winchester, the elder, died in the city of Baltimore many years ago, without issue.

To 9th question he answers and says: I never knew a son of William Winchester, the elder, named Samuel. I knew a son of his—his eldest son—named James, judge of the U. S. district court; he had two children—a son and daughter. The son never married; the daughter was married to Jessee Willis; she and her husband have been long since dead, leaving no issue.

To the 10th question he answers and says: I have that Charles Winchester died in 1824, leaving three children. Mary, the youngest, now Mrs. Slocum, is living with her husband in Virginia at present.

To the 11th question he answers and says: I have answered all the questions as far as I am able.

JAMES B. LATTIMER.

STATE OF MARYLAND,
City of Baltimore, sct:

I, William W. Lattimer, a commissioner of the State of Tennessee, appointed and commissioned by the governor thereof, for the State of Maryland, do hereby certify that the foregoing depositions of
497 Robert Mickle and James B. Lattimer were taken before me, as stated in the caption, and reduced to writing by me. I further certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed them up and put them in the post office in Baltimore, without being out of my possession or altered after they were taken.

Given under my hand and official seal at Baltimore aforesaid, this twentieth day of September, A. D. 1867.

W. W. LATTIMER,
Comm'r for Tennessee residing in Baltimore City.

Cost of taking testimony $10 00; stamps .05; postage .18—$10 23.

498 PIERRE A. HARDY ET AL.
vs.
JOHN NELSON ET AL. } No. 1362.

AND

THOMAS MURDOCH ET AL.
vs.
THE MAYOR & ALDERMEN OF MEMPHIS ET AL. } No. 1410.

Interrogatories to be propounded to Joseph C. Guild, witness for complainant in both of the above cases.

Ques. 1st. Were you acquainted with Gen'l James Winchester, of Sumner County, Tennessee? If so, state when he died, and if he was one of the original proprietors of the city of Memphis.

Ques. 2d. How many children did he leave, and what were their names?

Ques. 3d. How many of those children are now living, and which are they; where do they reside; are their husbands living, and if not, when did they die?

Ques. 4th. How long has Mrs. Wynn been a married woman?

Ques. 5th. Is Hellen M. non compos; if so, how long has she been in that condition?

Ques. 6th. Who did Maria Winchester marry; is she still living? If not, when did she die? Give the names of her children, and state which of them are living, and if married, to whom; what are the names of their husbands, and who of their husbands are still living?
499 Is Julian Breedlove living? If not, when did he die; and what children did he leave, and are they living; and where do all those spoken above who are living, reside?

Ques. 7th. When did Valerius Winchester die? What children did he leave; does his widdow survive, and where do they reside? What is the widdow's name? Who did the daughter marry, and is the husband still living?

Ques. 8th. Who was Amanda Winchester; when did her husband die; what children did he leave; are they living; if not, when did they die; did they leave issue?

Ques. 9th. Who was Laura Blood the daughter of, and who was the mother of John Shelby? When did Laura marry, and to whom? Is the husband still living, and where do Laura and John reside?

Ques. 10th. Maria, John, and Bayless Winchester, whose children were they? Are these children all living; if dead, did they die unmarried, and without issue?

Ques. 11th. Whose daughter was Susan Hills? What is the name of her husband? Is she still a fem' covert? When did she marry, and where do they reside?

It is agreed that the deposition, when taken, may be used in both cases, all formalities being waived, but it must appear that the witness was sworn by an officer authorized to take depositions.

500 STATE OF TENNESSEE, *Shelby County:*

I, Augustin Alston, clerk & master of the chancery court of Memphis, certify that the foregoing pages are a full, true, and perfect copy of inter'ogatories as filed in my office Sept. 3d, 1867.

Witness my hand and seal of office, at office in Memphis, this 14th day of September, 1867.

A. ALSTON, *M. & C.*

Answer of Joseph C. Gould to the inter'ogatories propounded to him in the cases of Pierra A. Hardy et al. vs. John Nelson et al., and Thomas Murdoch et al. vs. The Mayor and Aldermen of Memphis et al.

Answer to question 1st. I was acquainted with Gen'l James Winchester; he resided for more than 30 years in Sumner County, Tenn'e, and died there in July, 1826. He was one of the original proprietors of the city of Memphis.

501 To quest. 2d. He left ten children whose names are as follows: Marcus B., Lucilias, Valerius P., James M., and George W., Maria E., Almira, Louisa, Caroline, and Hellen M.

To quest. 3d. Of the sons, one, to wit, George; of the daughters, Almira, Louisa, and Hellen. George resides in Memphis, Tenn.; Almira and Hellen in Sumner County, Tenn.; Louisa in De Kalb County, Tenn.; A. R. Wynn, the husband of Almira is living; Edmond Rucker, the husband of Louisa, died during the war, in 1862 or 1863.

To question 4th. Mrs. Wynn has been a married woman since 1823 or 1824.

To question 5th. Hellen M. has been non-compos from her birth.

To question 6th. Maria married James W. Breedlove; she died some fifteen or twenty years ago; I think in 1848. Her children were Ophelia, Urilda, Julian, Ja's W., and Napoleon B., all of whom are living, except Julian, who died shortly after the Mexican war; I think in 1848.

502 Ophelia married Pierra A. Hardy, who is still alive. Urilda married J. W. Smith, who is dead. I do not know when he died. Julian left two children, I think. I do not know their names; all the surviving children of Maria, except Napoleon, reside in New Orleans, La.; he resides in Ark.

To question 7th. Valerious died in 1837, I think. He left his wife and one daughter; the former by name Samuella, the latter Valeria, who intermarried with a Mr. Irwin, who is still alive. They all reside in Nashville.

To ques. 8th. Amanda Winchester was the wife of Lucilius, who died in 1834. I do not know whether the widdow survives or not. Their only child, a son, James by name, perhaps afterwards called Lucilius, I learn, died during the war; if so, he died without children, never having married.

To ques. 9th. Laura Blood and John Shelby were the only children of Caroline. Laura married Henry Blood about 20 years ago. The husband is still living. Laura resides in Vermont, John in Texas.

To question 10th. Maria, John, and Bayless, were the children of James Winchester, now dead. Bayless died in infancy, unmarried and without issue.

503 To question 11th. Susan Hills was the daughter of Selima, (another daughter of Gen'l James Winchester,) who died before her father, leaving Susan, her only child. Susan intermarried 30 years ago with Horatio W. Hills. They both survive, and live in New Orleans.

JO. C. GUILD.

STATE OF TENNESSEE, *Davidson County:*

I certify that at my office in the city of Nashville, the 3d day of October, 1867, I have Joseph C. Guild, a witness in the case of Pierra A. Hardy & others vs. John Nelson & others, and in case of Thomas Murdoch & others vs. Mayor and Aldermen of the City of Memphis, who, being first legally sworn, deposed as stated above. To which answers the said Guild subscribed his name, he being *his name and* lawful age; and I certify that I am not of kin to the parties, neither interested, ag't, or counsel. And I immediately enclosed the above deposition with the inter'ogatories, and sent it by Adams' Express, directed to Maj'r George W. Winchester, Memphis.

This 3d Oct., 1867.

N. A. MATHEWS,
Justice of Peace of Davidson County.

504 THOMAS MURDOCH & OTHERS
vs.
MAYOR & ALDERMEN OF MEMPHIS; } 1410.

AND

P. A. HARDY & OTHERS
vs.
THOMAS NELSON & OTHERS. } 1362.

Inter'ogatories to be propounded to George Winchester, Uroth Wilkins, and Janet Lake, to be read in evidence in the above causes.

MILTON P. JARNAGAN,
Sol. for Mayor & Aldermen.
1362. R. J. MORGAN, *Sol. for Def'ts.*

Ques. 1st. Is Mrs. Janet Lake, daughter of Mary Armour, and granddaughter of William Winchester, s'r, still living? if so, where? Is she still a fem' covert; if not, when did her husband die?

Ques. 2d. Did you know James Armour, son of Mary Armour, and grandson of William Winchester, s'r, of Baltimore? if so, is he living or dead? When did he die? What children did he leave? State their names, and present places of residence? Who of the daughters

are married? When were they married? To whom? Are their husbands still living? If not, state which of them are dead? If any of the children are minors, name them; and their ages, as near as
505 you can; if any of the children of James Armour have died since he died, name them, and state what children they left.

Ques. 3d. State all you know about the de'cendants of Catherine Welling, daughter of W'm Winchester, s'r?

Ques. 4th. When did Maria Armour, grand-daughter of W'm Winchester, s'r, die? Was it before 1840? When did her daughter Lydia intermarry with George Jenkins? Is her husband still living? Do you know when Mrs. Mary C. Murdoch, wife of Thomas Murdoch, was married to him? Was it before 1840?

Ques. 5th. What children did David Winchester, son of William Winchester, s'r, leave? Who of them are living, and where? If there was a daughter, was she married or single? State her age, as near as you can.

Ques. 6th. Do you know when Mary and W'm A. Moal, of Baltimore, were married? Answer the same question as to Elizabeth Murdoch. When was she married to Dr. Murdoch? What is Dr. Murdoch's given name?

Answer to 1st inter'ogatory. Mrs. Janet Lake is alive, and resides about two miles east of Memphis, Tenn. She is a widdow. Her husband died in October, 1866. Mrs. Lake is a grand-daughter of W'm Winchester, s'r, and daughter of Mrs. Mary Armour. Mrs. Janet Lake and her husband, Henry Lake, were married in the year 1829.

Answer to 2d inter'ogatory. I knew James Armour, son of Mary Armour, and gr'son of W'm Winchester, s'r, of Balt. He died
506 in 1863. He left five daughters and three sons: Mary, who married Eli G. Davidson, in 1856, Janet, who married Feuerstock, in 1866; Alice, who married Jno. Martin, in 1855; Elizabeth and Annie, James, Robert, and Walter. The last-named sons are minors, and live in Memphis. Mary, Janet, and Annie also live in or near Memphis. Elizabeth is dead, without issue. Alice lives in Arkansas. I do not know where James resides. Elizabeth died about two years after her father. The husbands of said daughters are still living.

Answer to 3d inter'ogatory. Of the de'cendants of Catharine Welling I know nothing, except that James W., one of her sons, died some years since in Baltimore, Md., leaving one daughter, who is still unmarried; the name of said daughter is Mary, and now resides in Baltimore.

Answer to 4th inter'ogatory. I do not know in what year Maria Armour, g'r'daughter of W'm Winchester, s'r, died; I do know, however, that it was long previous to 1840; her daughter Lydia married George Jenkins in 1838; her husband is still living. I do not remember in what year Mary C. Murdoch married Thomas Murdoch, but it was before 1840.

Answer to 5th inter'ogatory. David Winchester, son of W'm Winchester, s'r, left four children; three sons, Burrell, William, and George, and one daughter, Sarah; Burrell and George are dead; William and Sarah live in Madison County, Tennessee; Sarah is still single, and is about 40 years of age.

Answer to 6th inter'ogatory. Mary and W'm A. Moale were married, I think, in 1840. I do not know in what year her sister
507 Elizabeth married Dr. Murdoch, nor do I know Dr. Murdoch's first name; I know that Mary & W'm A. Moale were married be-

fore 1844; W'm A. Moale is still living. I visited Baltimore in 1844, and remember that the parties were then married and had children.

And furthermore deponent saith not.

GEORGE WINCHESTER.

Cross-examination waived.

Sworn to and subscribed before me this 7th day of October, 1867.

ROBERT FRAYSEER,
Notary Public.

508 In chancery at Memphis.

THOMAS MURDOCH ET AL.
vs.
THE MAYOR & ALDERMEN OF MEMPHIS & others. } No. 1410. N. R. D.

PIERRA A. HARDY ET AL.
vs.
JOHN NELSON ET AL. } No. 1362. N. R. D.

Interrogatories to be propounded to Mary Murdoch, to be read in evidence in the above cases on behalf of complainants.

Inter. 1st. Do you know when Catherine Welling, d'ughter of William Winchester, s'r, of Baltimore, died, or about the time; is her husband dead?

Inter. 2d. What children did she leave; give their names; state who the daughter married, and about what time *each* marriage took place?

Inter. 3d. Who of the children of Catharine Welling are now living, and state the residence of each, and how long they have lived there; if you say any of her daug'ters are living, state whether their husbands are living also; if not, state when they died, as near as you can?

Inter. 4th. Who of the children of Catherine Welling are now
509 dead; give their names, and, as near as you can, state when they died?

Inter. 5th. What children did these deceased children of Catharine Welling leave; state their names; state who of them are now living, and where, and how long they have been living at their present place' of residences, to the best of your recollection? If any of them are dead, state their names, when they died, and where, and what children they left. If any of these are daughters, and are married, state who they married, and when; whether their husbands are now living; if not, when they died.

Inter. 6. State every fact necessary to show who are the de'cendants and heirs of Catharine Welling, deceased, showing who of the females are married—the residences of all of them; in short, anything necessary to show who they are, where they reside, and the length of their residence at such place.

Inter. 7th. Do you know the given name of Dr. Murdoch, who married a daughter of George Winchester, the son of William Winchester, s'r?

HIESKELL, SCOTT & HIESKELL,
Sol'rs.

510 In chancery at Memphis.

THOMAS MURDOCH ET AL.
vs.
THE MAYOR & ALDERMEN & OTHERS OF Memphis. } No. 1410. N. R. D.

PIERRA A. HARDY ET AL.
vs.
JOHN NELSON ET AL. } No. 1362. N. R. D.

Answers of Mary Murdoch, in the above causes, to the inter'ogatories accompanying the same.

To the 1st inter'ogatory she answers and says: Catherine Welling, daughter of William Winchester, s'r, of Baltimore, died the 24th day of July, 1822; her husband, William Welling, died on the 20th day of March, 1835.

To the 2d inter'ogatory she answers: She left six children, namely: James W. Welling, Elizabeth Welling, Mary Welling, William Welling, Henry Welling, and Rebecca C. Welling. Elizabeth Welling married Levi Young, sometime during the year 1831. Mary Welling married Dr. Joseph Iglehart in the fall of 1836, and Rebecka C. Welling married Jame Morris in the summer of 1836.

To the 3d inter'ogatory she answers: William Welling and Mary Iglehart, children of Catharine Welling, are now living. They reside in Howard County, Maryland, where they were born and raised. Mary
511 Iglehart's husband is dead; he died sometime during the winter of 1838.

To the 4th inter'ogatory she answers: James W. Welling, Elizabeth Young, Henry Welling, and Rebecca C. Morris, children of Catharine Welling, are dead. James died August 13th, 1862. Elizabeth died April 18th, 1855. Henry died December 18th, 1853, and Rebecca died October 9th, 1847. Levi Young, the husband of Elizabeth, is still living, and resides in Howard County, Maryland; and James Morris, the husband of Rebecca, is still living and resides in Howard County, Maryland.

To 5th inter'ogatory she answers: James W. Welling left one daughter, Mary H. Welling, who resides in Baltimore City, Maryland, where she was born. Elizabeth Young left six children, namely: William W. Young, who resides in Louden County, Virginia, where he has been for six months; Levi Young, jun'r, resides in Montgomery County, Maryland, where he has been for five years. Mary Hoshell, wife of Jessee Hoshell, resides in Georgetown, D. C., where they have been for the last six years. Catharine W. Linn, wife of Samuel D. Linn, resides in Howard County, Maryland, where they have been for the last three years. Sally R. Gaither, wife of John W. Gaither, resides in the city of Baltimore, where they have been for six months. Elizabeth Young resides in Howard County, Maryland, where she was born. Henry Welling left one daughter, namely, Arabella Welling, who intermarried with Thomas G. Walkins, of Howard County, Maryland, where they now reside. Rebecca C. Morris left three children, namely, William W. Morris, Mary, who intermarried with George Zeigler, and Agnes who intemarried with Dr. Jeremiah Nichols; these parties all reside in Howard County, Maryland.

512 To the 6th inter'ogatory she answers: For my answer to this inter'ogatory I refer to my previous answers.

To the 7th inter'ogatory she answers: His name is Dr. Thomas F. Murdoch.

MARY MURDOCH.

STATE OF MARYLAND, *City of Baltimore, sct:*

I, William W. Lattimer, a commissioner of the State of Tennessee, appointed by the governor thereof, for the State of Maryland, and residing in the city of Baltimore, commissioned and duly qualified, hereby certify that the foregoing answers to the accompanying inter'ogations were made, signed, and sworn to, by Mary Murdoch, before me this twenty-fourth day of October, A. D. 1867.

In witness whereof, I have hereto set my hand and affixed my official seal at Baltimore aforesaid.

W. W. LATTIMER,
Commissioner for Tennessee resident in Baltimore City.

513 In chancery at Memphis.

THOMAS MURDOCH ET AL. *vs.* *John Nelson et al.* } 1410.

Deposition of Robert Richards, taken in behalf of compl't, at the office Hieskell, Scott & Hieskell, 17th day of September, 1867, by consent of solicitors for Mayor & Aldermen, to be used in evidence in the above cause.

Ques. 1st. When did Marcus B. Winchester die, and what children did he leave?

Ans. He died November, 1856, & left Laura Nelson, Frances Vance, Lesida Organ, Valeria Richards, Louisa Winchester, Loiselle Winchester.

Ques. 2d. Who of these children are dead, & what children did they leave?

Ans. Laura Nelson, Frances Vance, & Lasida Organ are dead; Laura Nelson, left Julius, William, Alice, Mary, Oseola, Marcus, Clarence, & Edgar Loftus. Frances Vance left, Robert, Lucy, (now Lucy Williams, wife of Corning Williams,) Hopefield, Agnes, Francis or Frank Edgar, Mary, Arthur, and Stonewall Vance. Lesida Organ left one child, Theresa Organ.

And furthermore this deponent saith not.

ROBERT E. RICHARDS.

Sworn to and subscribed to before me this 17th day of September, 1867.

JAMES HALL, *J. P., Memphis.*

All formal exceptions waived.
Sept. 17th, 1867.

R. J. MORGAN,
Def't Sol.

514 In chancery, at Memphis.

THOMAS MURDOCH & OTHERS
vs.
MAYOR & ALDERMEN OF MEMPHIS.

Deposition of Charles D. McLean, witness for complainants, taken at the office of Hieskell, Scott & Hieskell, No. 20 Madison street, Memphis, by consent of sol's of compl'ts and of Mayor & Al'd., on Saturday, 14th day of September, 1867.

Said witness, being duly sworn, dep's:

Ques. 1st. What is your age and place of residence, and how long have you resided there?

Ans. I am seventy-two years old; I reside three miles east of Memphis, and have lived there for thirty-odd years.

Ques. 2d. Were you personally acquainted with John C. McLemore; was he known as one of the original proprietors of Memphis; is he living or dead; if dead, when did he die; what children did he leave at the time of his death? Give their names.

Ans. I was personally acquainted with John C. McLemore. He was known as one of the original proprietors of Memphis, or rather he purchased out the interest of Andrew Jackson, who was one of the original proprietors; he is dead, and he died in the winter of 1864. The children he left were, Mary Ann Walker, (formerly Mary Ann McLemore,) widdow of James M. Walker, deceased; John C. McLemore, jr.; Alexander D. McLemore, (since dead;) Willough' W. McLemore. These were the living children at the time of his death.

Ques. 3d. Did Alexander D. McLemore die intestate and without issue?

515 Ans. He died unmarried and without issue, but he left a will, by which he gave all his property to his brother Willoughby W. McLemore. This will has not been probated.

Ques. 4th. What grandchildren, if any, did John C. McLemore leave at the time of his death?

Ans. He left one, a daughter of Thomas & Catharine Gholston. Catharine Gohlson (formerly McLemore) was the daughter of John C. McLemore, and died in his lifetime, as did also Thomas Gohlson. This daughter was named Josephine Gohlson. Josephine Gholson intermarmarried with Robert Hays, of Jackson, Tennessee, and now resides there. Her husband is still living.

Ques. 5th. Where do the children of John C. McLemore now reside; is the wife of John C. McLemore still living?

Ans. The children all reside in the county of Shelby, Tennessee. Their mother died in 1836, and John C. McLemore never married afterward.

Ques. 6th. Is Marcus B. Winchester dead, and what children did he leave?

Ans. He is dead; he left Laura, (who married John Nelson;) Frances (who married W'm Vance;) Lesida, (who married Charles Organ;) Valeria, (who married Robert Richards;) Louisa, who resides in Shelby County, and is unmarried; and Loiselle Winchester. To the best of my knowledge and belief, these were all the children he left living at the time of his death.

Ques. 7th. Is John Overton, sr., dead; was he one of the original proprietors of Memphis; when did he die; who are his heirs?

516 Ans. John Overton, sr., is dead; he died, I think, in 1839 or

1840; I knew him well from the year 1807 up to the day of his death; he was one of the original proprietors of Memphis; he had but one son, John Overton, who is now living in Davidson County, Tennessee; he left only two daughters, viz, Elizabeth, who married John M. Lea, and is still living in Davidson County, Tennessee; and Anne, who intermarried with R. C. Brinklay. Mrs. Brinkley (Anne) is dead; she left two children, Hugh L. Brinkley and Annie Brinkley; they are still living, and reside in Shelby County, Tennessee.

Cross-examined by R. J. Morgan, city attorney:

Ques. 1st. Please state whether or not any of the claimants in this case or their ancestors have acted as mayor or aldermen of town and city of Memphis since the year 1829; if so, give the names of such as you may remember?

Ans. I do not remember that any of the claimants or their ancestors have filled either of these places since 1829. I have been informed that Marcus B. Winchester was mayor of the city prior to the year 1829; he was the only one I ever heard of being connected with either of these positions.

And furthermore this deponent saith not.

CHARLES D. McLEAN.

Sworn to and sub. before me, Sept. 14th, '67.

R. J. BLACK,
D. C. & M.

517 THOMAS MURDOCH ET AL.
vs.
MAYOR & ALDERMEN ET AL. MEMPHIS ET AL. } 1410.

&

PIERRA A. HARDY ET AL.
vs.
JOHN NELSON ET AL. } 1362.

Deposition of J. R. Christian, taken by consent on the day of October, 1867, to be read in evidence in the above causes on behalf of compl'ts.

Ques. 1st. Did you know Anne Brinkley, wife of R. C. Brinkley and daughter of John Overton, sr., one of the original proprietors of Memphis?

Inter. 2d. Is she dead; if so, when did she die, as near as you can recollect; was it before or after January, 1845? State as near as you can the year.

Inter. 3d. What children did she leave, and what are their ages?

Inter. 4th. If Hugh L. & Anne Brinkley are her children, please state when they came of age?

Inter. 5th. Were they or either of them 21 years old in the year 1860?

Answer to 1st inter'ogatory. I did.

Answer to 2d. She is; she died, as well as I remember, in the fall of 1844.

518 Answer to 3d inter'ogatory. According to my recollection, she left only two children, a son and daughter; the latter, I think,

514 In chancery, at Memphis.

THOMAS MURDOCH & OTHERS
vs.
MAYOR & ALDERMEN OF MEMPHIS.

Deposition of Charles D. McLean, witness for complainants, taken at the office of Hieskell, Scott & Hieskell, No. 20 Madison street, Memphis, by consent of sol's of compl'ts and of Mayor & Al'd., on Saturday, 14th day of September, 1867.

Said witness, being duly sworn, dep's:

Ques. 1st. What is your age and place of residence, and how long have you resided there?

Ans. I am seventy-two years old; I reside three miles east of Memphis, and have lived there for thirty-odd years.

Ques. 2d. Were you personally acquainted with John C. McLemore; was he known as one of the original proprietors of Memphis; is he living or dead; if dead, when did he die; what children did he leave at the time of his death? Give their names.

Ans. I was personally acquainted with John C. McLemore. He was known as one of the original proprietors of Memphis, or rather he purchased out the interest of Andrew Jackson, who was one of the original proprietors; he is dead, and he died in the winter of 1864. The children he left were, Mary Ann Walker, (formerly Mary Ann McLemore,) widdow of James M. Walker, deceased; John C. McLemore, jr.; Alexander D. McLemore, (since dead;) Willough' W. McLemore. These were the living children at the time of his death.

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Ques. 4th. What grandchildren, if any, did John C. McLemore leave at the time of his death?

Ans. He left one, a daughter of Thomas & Catharine Gholston. Catharine Gohlson (formerly McLemore) was the daughter of John C. McLemore, and died in his lifetime, as did also Thomas Gohlson. This daughter was named Josephine Gohlson. Josephine Gholson intermarmarried with Robert Hays, of Jackson, Tennessee, and now resides there. Her husband is still living.

Ques. 5th. Where do the children of John C. McLemore now reside; is the wife of John C. McLemore still living?

Ans. The children all reside in the county of Shelby, Tennessee. Their mother died in 1836, and John C. McLemore never married afterward.

Ques. 6th. Is Marcus B. Winchester dead, and what children did he leave?

Ans. He is dead; he left Laura, (who married John Nelson;) Frances (who married W'm Vance;) Lesida, (who married Charles Organ;) Valeria, (who married Robert Richards;) Louisa, who resides in Shelby County, and is unmarried; and Loiselle Winchester. To the best of my knowledge and belief, these were all the children he left living at the time of his death.

Ques. 7th. Is John Overton, sr., dead; was he one of the original proprietors of Memphis; when did he die; who are his heirs?

516 Ans. John Overton, sr., is dead; he died, I think, in 1839 or

1840; I knew him well from the year 1807 up to the day of his death; he was one of the original proprietors of Memphis; he had but one son, John Overton, who is now living in Davidson County, Tennessee; he left only two daughters, viz, Elizabeth, who married John M. Lea, and is still living in Davidson County, Tennessee; and Anne, who intermarried with R. C. Brinklay. Mrs. Brinkley (Anne) is dead; she left two children, Hugh L. Brinkley and Annie Brinkley; they are still living, and reside in Shelby County, Tennessee.

Cross-examined by R. J. Morgan, city attorney:

Ques. 1st. Please state whether or not any of the claimants in this case or their ancestors have acted as mayor or aldermen of town and city of Memphis since the year 1829; if so, give the names of such as you may remember?

Ans. I do not remember that any of the claimants or their ancestors have filled either of these places since 1829. I have been informed that Marcus B. Winchester was mayor of the city prior to the year 1829; he was the only one I ever heard of being connected with either of these positions.

And furthermore this deponent saith not.

CHARLES D. McLEAN.

Sworn to and sub. before me, Sept. 14th, '67.

R. J. BLACK,
D. C. & M.

517 THOMAS MURDOCH ET AL.
vs.
MAYOR & ALDERMEN ET AL. MEMPHIS ET AL. } 1410.

&

PIERRA A. HARDY ET AL.
vs.
JOHN NELSON ET AL. } 1362.

Deposition of J. R. Christian, taken by consent on the day of October, 1867, to be read in evidence in the above causes on behalf of compl'ts.

Ques. 1st. Did you know Anne Brinkley, wife of R. C. Brinkley and daughter of John Overton, sr., one of the original proprietors of Memphis?

Inter. 2d. Is she dead; if so, when did she die, as near as you can recollect; was it before or after January, 1845? State as near as you can the year.

Inter. 3d. What children did she leave, and what are their ages?

Inter. 4th. If Hugh L. & Anne Brinkley are her children, please state when they came of age?

Inter. 5th. Were they or either of them 21 years old in the year 1860?

Answer to 1st inter'ogatory. I did.

Answer to 2d. She is; she died, as well as I remember, in the fall of 1844.

518 Answer to 3d inter'ogatory. According to my recollection, she left only two children, a son and daughter; the latter, I think,

being the younger of the two. I do not remember to have known their names in their infancy; & as I was absent from Memphis from Sept., 1845, to 1855, I only became acquainted with the name of the son since my return to Memphis. I understand his name to be Hugh L. The name of the daughter I do not remember to have heard or to have known.

Answer to 4th inter'ogatory. I think, at his mother's death, he must have been between three and four years of age.

Answer to 5th inter'ogatory. The answer to this inter'ogatory must be infer'ed from the previous answers.

J. R. CHRISTIAN.

Formalities and oath waived.
October 12th, 1867.

R. J. MORGAN,
Sol. for Compl'ts.

519 THOMAS MURDOCH ET AL.
vs.
MAYOR & ALDERMEN OF MEMPHIS & OTHERS.

The deposition of John H. Brinkley, taken by consent, in the above cause, at the office of Messrs. Hieskell, Scott & Hieskell, No. 20 Madison street, on the 27th day of January, 1868, to be read in evidence in the above cause on behalf of complainant.

Question 1st. Did you know Anna Brinkley, (formerly Anna Overton,) daughter of John Overton, s'r, and wife of R. C. Brinkley? If so, state when she died; what children she left; and when such children were born?

Ans. I did know her very well. She was my sister-in-law. I am a brother of R. C. Brinkley. She died the 31st day of May, 1845. She left but two children—Hugh L. Brinkley and Anna [O.] Brinkley. Hugh was born the 13th of August, 1841, or 1842, I am not positive which year. Anna was born the 17th of January, 1845. I know it was not earlier than 1841 that Hugh was born. It was one or the other of these years.

And further deponent saith not.

J. H. BRINKLEY.

Oath of witness waived, and all formalities, questions of competency and relevancy, reserved.

R. J. MORGAN,
Sol. for Compl'ts.

Filed January, 1868.

520 THOMAS MURDOCH ET AL.
vs.
MAYOR & ALDERMEN OF MEMPHIS ET AL. H. D. 771. N. R. D. 1410.

Be it remembered that this cause came to be heard before the Hon. Henry Ellett, special chancellor, selected by consent of the parties, in pursuance of section 3921 of code, the chancellor being incompetent, upon bill, amended bills, answers, and upon the agreement, records, and evidence on file; and the same being understood by the court, and the court being of the opinion that the demurrer of the defendant, the Mayor & Aldermen of Memphis, first by them pleaded in their answer, is well

taken, and ought to be sustained; and being further of the opinion that the title of the Mayor & Aldermen of Memphis to the property in controversy is perfect as against the complainants, both under the act of cession by the Congress of the U. States and by the statute of limitations, and that the complainants are entitled to no relief in the premises, and that their bill and amended bill ought to be dismissed:

It is therefore ordered, adjudged, and decreed by the court, that complainants' said original and amended bills be dissmissed, and that their sureties on the bond for costs pay the costs of this suit; for which let executions issue.

From which decree the complainants pray an appeal to the next term of the supreme court of Tennessee, to be holden for the western division of Tennessee, on the first Monday in April next; which is granted, upon condition that they give an appeal bond in the penalty of five hundred dollars, with satisfactory security conditioned as prescribed by law.

521 We, Thomas Murdock, J. M. Campbell, et al., mentioned in the bill & amended bills as compl'ts, Cha's D. McLean acknowledge ourselves indebted to the Mayor & Aldermen of Memphis, William Wheatley, et al., in the sum of five hundred dollars, to be void if the said Thomas Murdock et al., who prayed for and obtained an appeal from a decree of the chancery court of Memphis in a cause in which Thomas Murdock et al. are compl'ts, & The Mayor & Aldermen et al. def'ts, to the next term of the supreme court of Tennessee for the district of West Tennessee, shall pay all such costs and damages as shall be awarded against them by said supreme court.

April the 8th, 1868.

JOHN OVERTON,
By GEORGE GANTT. [L. S.]
CHA'S D. McLEAN. [SEAL.]
J. J. DuBOSE. [SEAL.]
GEORGE GANTT.

522 (Endorsed:) No. 1410. R. D. Thomas Murdock et al. vs. Mayor & A. of Memphis. Appeal bond. Filed 9c day of April, 1868. A. Alston, C. & M.

I certify that the foregoing contains a full, true, & perfect transcript of the record & proceedings in the above-named cause.

April 21st, 1868.

{ SEAL OF COURT. }

A. ALSTON,
C. & M. Chancery Crt of Memphis.

And, on the 7th day of June, 1870, the following proceedings were had before said supreme court of the State of Tennessee, to wit:

THOMAS MURDOCK
vs.
THE MAYOR & ALDERMEN OF THE CITY OF Memphis and others.

This cause came on for hearing before the Hon. George Andrews, Alvin Hawkins, & Andrew McLain, judges of the supreme court
523 of Tennessee, on the 7th day of June, 1870, upon the transcript & proceedings of the chancery court of Memphis, and the same

having been argued and fully considered, and this court being of opinion that in the decree of the chancellor there is no error, and that the same ought to be affirmed: It is, therefore, adjudged and decreed by this court that the decree of the chancellor dismissing the complainant's bill be in all things affirmed, and that the complainants and Cha's D. McLean, J. J. DuBose, and George Gantt, their sureties on appeal bond, pay the cost of this and the chancery court; for which let execution issue.

And on the 30th of June, 1870, the following further proceedings were had before said court, to wit:

THOMAS MURDOCK
vs.
MAYOR AND ALDERMEN OF CITY OF MEMPHIS.

524 In this cause a petition for rehearing is filed.

And, on the 5th day of July, 1870, further proceedings were had before said court in this cause, to wit:

THOMAS MURDOCK
vs.
MAYOR AND ALDERMEN OF MEMPHIS.

The petition for rehearing of this cause being duly considered, it is refused.

And, on the 6th day of July, 1870, the following proceedings were had in this cause before said court, to wit:

THOMAS MURDOCK
vs.
MAYOR AND ALDERMEN OF MEMPHIS.

The decree heretofore rendered in this cause is so modified by insert-
in the following recital: This court is of opinion, and does declare,
525 that the act of Congress, approved August 5th, 1854, cedes the property in controversy in this cause to The Mayor and Aldermen of the City of Memphis, for the use of the city only, and not in trust for the complainants, and that the complainants take no benefit under said acts.

STATE OF TENNESSEE:

I, John L. Brown, clerk of the supreme court of the State of Tennessee for the western division thereof, at Jackson, certify the foregoing to be a full, true, & perfect transcript of the record & proceedings in the above-named cause, as the same appear of file & record in my office.

Witness my hand and private seal, (having no public seal of court,) at office in Jackson, this Febr'y 27th, 1871.

JNO. S. BROWN, *Clk.*
Per E. S. BULLOCK, *D. C.*

526 *Bill of costs of chancery court of Memphis.*

State tax, 5 00	5 00
Filing bill, 25; aff'd, 25	50
Bond, 1 00; s'p'a, 75; copy bill, 6 50; alias s'p'a, 75	9 00
Filing amended bill, 25; bond, 1 00	1 25
Order of publication, 50; copy, 50; set for hearing, 40; order allowing petition, 25	1 65
Bond, 1 00; decrees, 3 00; order for appeal, 25; pro con. 25	4 50
Judgment, 50; transcript, 148 00; seal, 50	149 00
Copy interrogatories, 2 50; 2 seals, 1 00; aff'd, 25	3 75
Aff'd, 25; filing papers, 5 00; depositions, 14 00	19 25
Motion, 25; bill costs, 50; app'l bond & order, 75	1 50
Seal map, 5 00	5 00
	194 65

SHERIFF.

Printers, per Sargster, s'p'as, 7 25	7 25	
" " Elton alais s'p'a, 1 00	1 00	
Non-resident publication, 5 00	5 00	
		$13 25
		$207 90

527 *Bill of costs in supreme court.*

Filing record, 75; ent' on trial dock', 80	1 55
Order re-tax' costs, 50; judgment, 75; do. surety, 25	1 50
Ent' costs, 1 00; ent' same, 50; con' bill, costs incl', 50	2 00
Enrolling fee, 139 00; orders, 1 00.	140 00
	$145 05

The costs of copying the transcript in this cause have been paid, respectively, by the parties complainant, as follows, namely:

JNO. S. BROWN, *Clk.*
Per E. L. BULLOCK, *D. C.*

528 To the Honorable A. O. P. Nicholson, chief justice of the supreme court of Tennessee:

The petition of Thomas Murdock & others, complainants, in the case of Thomas Murdock & others vs. The Mayor & Aldermen of Memphis & others.

Your petitioners would respectfully represent unto your honor, that lately, in the supreme court of Tennessee, there was pending a cause wherein your petitioners were complainants, and the Mayor & Aldermen of Memphis & others were defendants, in which a final decree was rendered in said supreme court at the April term, 1870, of said court against the complainants, your petitioners, & in favor of the defendants in said cause. They further represent to your honor, that in the said

cause & proceeding, there was drawn in question one of the matters described in the 25th section of the judiciary act of the United States, namely, the construction of a statute of the United States, being the following statute: The act of Congress of August 5, 1854, "that all the grounds and appurtenances thereto belonging, known as the
529 Memphis navy yard, in Shelby County, Tennessee, be, and the same is hereby, ceded to the Mayor & Aldermen of the City of Memphis, for the use & benefit of said city, and that the Secretary of the Navy order the commandant of the navy yard at Memphis to surrender to the mayor of Memphis said property."

Your petitione's claimed that, under the true & proper construction of this act, the United States withdrew from the property, and surrendered it, or gave it back to the city of Memphis, from whom it had been originally received by the United States as a donation for the erection thereon of a navy yard; and, it appearing that in so donating it, the city of Memphis acted as a trustee for your petitioners, being a tenant in common with them in said property, & expressly receiving it in trust to make said donation, your petitione's insisted that the city of Memphis, by virtue of said act, held it in trust for complainants; & that herein was a right & benefit which complainants pos'essed under said act. But the decision of the supreme court was adverse to the
530 right & benefit thus claimed by your petitioners, and it so appears of record, the said decree reciting as follows:

"This court is of opinion, and does declare that the act of Congress, approved August 5th, 1854, ceedes the property in controversy in this cause to the Mayor and Aldermen of the City of Memphis for the use of the city only, and not in trust for the complainants; and that the complainants take no benefit under said act."

Your petitioners therefore pray your honor to endorse an allowance of a writ of error, & that the proper citation be signed by your honor, to the end that the record & proceedings in said cause may be removed into the Supreme Court of the United States, to the end that said error may be corrected. And your petitioners, as in duty bound, will ever pray.

THOMAS MURDOCK & OTHERS,
By HEISKELL, SCOTT & HEISKELL & WINCHESTER, *Solicitors.*

531 STATE OF TENNESSEE, *Jackson:*

The writ of error prayed for in the within petition is granted & allowed in pursuance of the law in such cases.

June 1st, 1871.

A. O. P. NICHOLSON,
Chief Justice of the Supreme Court of Tennessee.

(Indorsed:) Thomas Murdock et al. vs. The Mayor & Aldermen of Memphis. Petition. Heiskell, Scott & Heiskell, & Winchester, solicitors.

532 The President of the United States to the honorable the judges of the supreme court of Tennessee, greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you or some of you, being the highest court of law or equity of the said State, in which a decision could be had in the said suit between Thomas Murdock & Mary C. Murdock, his wife; J. Mason Campbell, William D. Winchester, Sarah Winchester, his wife; John Marshall Winchester,

Thomas F Murdock & his wife, Elizabeth C. Murdock; William A. Moales & his wife, Mary T. Moales; Andrew Parks Winchester, William Willing, Mary H. Willing, Levi Young, William W. Young, Mary Young, Daniel D. Lynn & Catharine W. Lynn, his wife; John W. Gurther & wife, Sarah R. Gurther; Jessee W. Horshall & wife, Mary R. Horshall; Elizabeth Young, Mary Iglehart, Kate Arabella Watkins & her husband, Thomas G. Watkins; William W. Morris, George Zeigler & Mary Zeigler, his wife; Jeremiah Nichols and wife, Agnes Nichols; George Jenkins & wife, Lydia Jenkins; Janet Lake, James Armour, Mary Davidson & husband, E. S. Davidson; G. A. Feuerstache & wife, Janet L. Feuerstache; John Martin & wife, Alice Martin; Anna Armour, and Robert B. Armour, Walter B. Armour, infants, who sue by next friend, Emily B. Armour, Mary Slocumbe & Slocumbe, her husband; James Winchester, William Winchester, F. Donaldson & wife, Elizabeth Donaldson; George Winchester, George W. Winchester, John Winchester, Bayless Winchester, Mariah Winchester, Mary Winchester, A. R. Wynne & Almyra, his wife; Amanda Winchester, Louisa Rucker, Samuella Winchester, Thomas Erwin, & Valeria Erwin, his wife; Pierre A. Hardy & Ophelia, his wife; Urilda Smith, Mary Breedlove, Maria Rowe Rowe, her husband; James W. Breedlove, jr., James W. Breedlove, sr., Winchester Breedlove, Napoleon Breedlove, H. W. Hills & Susan Hills, his wife; Henry Blood, & Laura Blood, his wife; & John Shelby, complainants, vs. The Mayor & Aldermen of the City of Memphis, now the City of Memphis; William Arthur Wheatley, Mary E. Wheatley, Jane E. Weaver, Hugh L. Wheatley, Mary Lou. Saunders, Kate S. Saunders, Samuel Tate, & James Elder, defendants, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, & the decision was against their validity; or wherein was drawn in question, the validity of a sta'ute of, or an authority exercised under, said stat'e, on the ground of their being repugnant to the Constitution, treat*ise*, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or of a statute of, or commission held under, the United States, & the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause
533 of said Constitution, treaty, statute, or commission, a manifest error hath happened to the great damage of the said Thomas Murdock & others, the complainants in said cause, as by their said complaint appears:

We, being willing that error, if any hath been, should be duly corrected, & full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly & openly, you send the record & proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, & according to the laws & customs of the United States should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the said Supreme Court, the first *of June* [Monday of December,] in the year of our Lord one thousand eight hundred and seventy.

534 [SEAL.] H. E. ANDREWS,
Clerk U. S. Circuit Court.

Allowed by—

A. O. P. NICHOLSON,
Chief Justice of Sup. Court, Tenn.

Issued 1st June, 1871.

535 (Indorsed:) Thomas Murdock & others vs. the Mayor & Aldermen of Memphis. Writ of error.

536 *Citation.*

The United States of America to the City of Memphis, William Arthur Wheatley, Mary E. Wheatley, Jane E. Weaver, Hugh L. Wheatley, Mary Lou. Saunders, Kate S. Saunders, Samuel Tate, and James Elder, defendants in the cause of Thomas Murdock & others vs. The Mayor & Aldermen of Memphis, & others, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of Tennessee, wherein Thomas Murdock & others are plaintiffs in error, & you are defendants in error, to shew cause, if any there be, why the decree rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, & why speedy justice should not be done to the parties in that behalf.

Witness the Honorable A. O. P. Nicholson, chief justice of the
537 supreme court of Tennessee, this first day of June, in the year of our Lord one thousand eight hundred and seventy-one.

A. O. P. NICHOLSON,
Chief Justice Sup. Court of Tennessee.

Service acknowledged for the city of Memphis, June 8th, 1871.
W. M. RANDOLPH, *City Att'y.*

Service also acknowledged for W'm A. Wheatley, Mary E. Wheatley, Hugh L. Wheatley, Mary Lou. Saunders, Kate S. Saunders, at their request.
June 8th, 1871.

W. M. RANDOLPH, *Sol.*

538 Also, for Samuel Tate and James Elder, at their request.
June 8th, 1871.

W. M. RANDOLPH,
Solicitor.

Also, for Jane Weaver, by her request.
June 15th, 1871.

W. M. RANDOLPH,
Solicitor.

539 (Indorsed:) Thomas Murdock & others vs. The Mayor & Aldermen of Memphis & others. Citation.

(Indorsement on cover:) No. 555. Thomas Murdock et al., plaintiff in error, vs. The Mayor and Aldermen of Memphis et al. Tennessee sup. court. Filed 24th July, 1871.

Supreme Court of the United States.

Thomas Murdock, et. al., Plaintiffs in Error,
—VS.—
The Mayor and Aldermen of Memphis, et. al.

No. 106.

BRIEF

FOR

PLAINTIFFS IN ERROR.

J. B. HEISKELL, GANTT & SCOTT,

Of Counsel for Plaintiffs in Error.

Supreme Court of the United States.

Thomas Murdock, et. al., Plaintiffs in Error,

—VS.—

The Mayor and Aldermen of Memphis, et. al.

BRIEF

FOR

PLAINTIFFS IN ERROR.

I.

This is a Bill filed by the real representatives of the Original Proprietors of Memphis to recover from the defendants *in error* —the City of Memphis—an undivided one-half of certain real estate known as the Navy Yard grounds at Memphis, and to hold the city liable for rents and profits of the same since the year 1854.

Plaintiffs *in error* claim that by a certain tripartite deed, known in this record as the COMPROMISE DEED,

See Exhibit C, Record p. 9,

and executed in the year 1844, they and the defendants *in error*, in conjunction with certain individuals called in this record the Warrant-holders, (not parties to this record) became tenants in common of this property in the proportion of one-half to plaintiffs *in error*, one-sixth to the defendants *in error*, and one-third to the "Warrant-holders;" and that by the same deed the three tenants in common placed the legal title to this property in their co tenant, the defendants *in error*, in trust to convey the

same as a donation to the United States Government for a Navy Yard; and provided further for a sale of this property, and a division of the proceeds between them in the above proportions, through the agency of a trustee, "in case the same shall not be *appropriated* by the United States for that purpose."

The United States accepted the donation for this purpose, but finding it impolitic to construct a Navy Yard, soon afterwards confined the appropriations to a rope walk, and held it for this subordinate purpose until August, 1854, when the Government finally abandoned the entire project, and returned the property to the city by the Act of Congress of Augnst 5, 1854.

The defendants *in error* have held it ever since, and received the rents and profits, for which they have wholly failed to account to the plaintiffs *in error*.

The defendants *in error* answer, stating that the United States ceded the property back to the city by this Act of Congress, and that by virtue thereof it became the absolute owner of the same, freed from all trusts in behalf of plaintiffs *in error*.

Against this admission in the answer that by this Act of Congress the United States ceded the property back to the city, the majority opinion of the Supreme Court of the State held that this Act constituted a gift to the city, and not a return, and by its decree

See Record, p. 210,

held that plaintiffs *in error* took no benefit under the said Act.

The dissenting opinion held that it was a relinquishment and return of the property, and that the original trusts re-attached.

This raises the first question, and the one upon which the jurisdiction of the Court rests.

The other questions presented by the record, assuming that they are open in this Court under the judiciary Act of 1867,

Kahn vs. Stewart, 11 Wallace p. 493.

are,—

2nd. The property was not appropriated to the purpose of a Navy Yard in the sense of the compromise deed.

3rd. If it was so appropriated, upon the subsequent abandonment by the United States, it re-vested in the donors.

4th. The defendants *in error*, by reason of their relation to the plaintiffs *in error*, of tenant in common and trustee under the com-

promise deed, were precluded from accepting the property demand of these trusts.

II.

ASSIGNMENT OF ERRORS.

The errors assigned are

1st. The Supreme Court of Tennessee was of opinion and did declare that the Act of Congress of August 5, 1854, cedes the property in controversy in this cause to the Mayor and Aldermen of the city of Memphis, for the use of the city only, and not in trust for the complainants, and that the complainants take no benefit under said Act:
whereas by said Act the United States withdrew from said property, and abandoned entirely any intention to ever appropriate it to the purpose for which it was donated, and surrendered and returned it as an act of justice; and did not make a gift of it to the city, in the exercise of a new and wrongful assertion of ownership and of continued right of disposition.

2nd. The Court erred in holding that there was an appropriation of the property for the purposes of a Naval Depot in the sense of the compromise deed.

3rd. There was error in the failure of the Court to hold that even if the property was "appropriated" and subsequently came back to the city as a gift, yet it could not hold the same denuded of the trusts of the compromise deed.

4th. There was error in the failure to hold that in virtue of the words of the compromise deed, "for the location of the Naval Depot aforesaid," the United States took the estate in the property subject to be defeated by a future abandonment of the purpose.

III.

The Act of Congress of August 5, 1854, above referred to, is in the words following:

"*Be it enacted, &c.*, That all the grounds, and appurtenances thereunto belonging, known as the Memphis Navy Yard, in Shelby County, Tennessee, be and the same is hereby ceded to the Mayor and Aldermen of Memphis, for the use and benefit of the city; that the Secretary of the Navy order the commandant of the Navy Yard at Memphis to surrender to the Mayor of Memphis said property."

We submit:

1st. This was a relinquishment and return, as appears from the Act itself. The words "for the use and benefit of the city" can have no effect upon the construction of the statute. Being to the Mayor and Aldermen of the City of Memphis, is to persons in a representative capacity; and that representative capacity is in behalf of the city, and so these words are tautological, and the Act may be read without them, for they merely express the legal import of what has already been expressed by the use of the term "the Mayor and Aldermen of the City of Memphis." It is like the words "and their successors," or "and their successors in office," which are redundancies by all the authorities.

Overseers, &c. vs. Seers, 22 Pick., 176.
4 Cruise Dig. 442.
Wash. Real Prop., vol. 1, p. 73.

These words correspond to the *habendum* of a deed, which is now a useless form.

Kent, vol. 4, p. 496.

"To the only proper use and behoof," held a technical redundancy.

Houston vs. Embry, 1 Sneed, 490.

They may therefore be disregarded in fixing the legal import of this statute.

Statutes of this character are construed like common conveyances of property.

Bro: Parlia; Pl. 27.
Barrington's Case, 8 Rep. 138.
Dwarris on Statutes, (Potter,) p. 209, note 23.

The word "ceded" in the Act means yielded; surrendered; given up.

Webster's Dictionary.

If it ever has other signification, it is in dealings between Governments, and not between a Government and individuals.

If a gift had been intended, appropriate words, as "given and granted," would have been used.

The ordinary and primary signification should here be adopted.

Even if this word admits of two senses, the above meaning should be given it, as it comports with the manifest equity.

Such is the familiar rule of construction.

Dwarris on Statutes, (Potter,) p. 208.
Donaldson vs. Wood, 22 Wend., 379.
Dwarris, p. 203, note 20.
Ib. p. 131.

The word "surrendered" in the Act also harmonises with this signification.

2nd. If there be any ambiguity in this statute, the history and nature of the transaction itself, and also the debates in Congress on its passage, show that it was the real intention of Congress to make this statute a surrender and restoration of the property.

Cong. Globe, vol. 28, part 3, p. 2154 and p. 2179.

That it was a donation for a Navy Yard; Record, p. 169, 173; Report of Naval Committee, Record, p. 133; and that Navy Yard was never constructed; Record, p. 176, 177.

The debates can be looked to to show the nature of the transaction, the circumstances under which the Act was passed, the understanding as to the persons from whom received, and how given, and the policy of the Government in relation to its retention or abandonment.

Cooley's Const. Lim., p. 66.

3rd. Being thus a surrender and restoration to the city, who was one of the original donors, and the trustee and tenant in common of plaintiffs *in error*, it was reinstated in the possession of the property just as it held it at the time of the original donation; and, of consesequence, the original trusts re-attached upon the property in its hands.

See Hill on Trustees, p. 179.
Story Eq., Sec. 1200, and note.

Plaintiffs *in error* thus take a benefit under this Act of Congress, its proper construction being a surrender and restoration of the donated property.

The property was not appropriated to the purposes of the Navy Yard and Depot as contemplated by the compromise deed.

The "purpose" to which this clause of the deed refers is the

Navy Yard, mentioned in the Act of June 15, 1844, which designated it as a Navy Yard "for the construction and repair, the accommodation and supply of vessels of war," and solicited donations of land for this purpose.

The Government abandoned the idea of constructing a Navy Yard, soon after accepting the deed, and confined the appropriations to a rope-walk.

See Report of the Secretary of the Navy to the President, December 1st, 1845,—the same year the deed was accepted,—recommending this restricted use.

Record, p. 126.

And by the Act of Aug. 10, 1846, Congress so restricted it.

See 7 Cold. R., p. 491, where this Act is quoted.

Up to this time nothing had been done upon the premises but excavating and pile-driving, and dressing up the grounds; and outside of this plans and estimates for a Navy Yard had been made, but no improvements looking to a Navy Yard;

Record p. 176 and 177; and 126 and 127,

and after the passage of this Act of Congress subordinating the work to a rope-walk, it was confined to this purpose up to the time of final abandonment.

Record p. 176–181,–185–186.

These facts show an *intention* to appropriate to a Navy Yard, and some preparatory steps taken to that end, but an abandonment of that intention and an appropriation to the purpose of a rope-walk

This latter was the appropriation *in fact made.*

The true meaning of the parties by the use of this phrase, "in case the same was not appropriated" by the United States for the purpose of the contemplated Navy Yard, was the substantial compliance; the construction of the proposed work. Such is the fair and natural import of the language employed.

The history of the transactions and the surroundings of the parties also show that such was their meaning. In 1843, Congress made an appropriation to survey the harbor of Memphis, with the view to this Navy Yard; the survey was made and the site where these grounds are located, was reported as the only practicable site; this report was made May 3, 1843.

Record p. 147.

On the same day the board of Mayor and Aldermen authorized the Mayor to convey this land, together with a tier of lots which lay adjoining and was also needed, for the consideration of $20,000,—to be conveyed to the United States for a Navy Yard "*so long as the same should be used for that purpose.*"

Record p. 164.

At that date the city did not own this tier of lots, and the balance of the property now in controversy was in litigation between the plaintiffs *in error*, the city, and the "warrant holders:" Next followed the Act of Congress of June 15, 1844, authorizing the President to purchase grounds, and also to receive donations from the city or individuals for this Navy Yard. See this Act quoted in 7 Cold. R., p. 487.

The passage of this Act was followed by the withdrawal of the litigation, the compromise by which these parties became tenants in common, the donation of these grounds, and the direction for division and sale in case it was not appropriated: all of which appears in the compromise deed.

The resolution of the Board in 1843, uses the phrase, "so long as it should be used for that purpose;" this compromise deed, "in case the same is not appropriated by the United States for that purpose."

As an inducement to execute this deed, it was urged upon the proprietors that the construction of this work would increase their remaining property ten-fold.

Claybrook's Deposition, Record p. 191.

Here was a magnificent donation of 80 acres of lands, Record p. 148, within the limits of a rapidly growing city, worth at that time not less than $100,000. In 1855, on the floor of the U. S. Senate, this ground is stated to be worth, at that time, a half million dollars.

Record p. 173.

If the selection of the site, acceptance of the deed, occupation of the ground, and mere preparation to construct the Navy Yard, notwithstanding the change of purpose, be the appropriation intended, we may then put all the parties back to this particular period of time, and viewing them at that stand point, we would

have to recognize the right of the Government then to dispose absolutely of the property. We may suppose the donors asking a return of the property, seeing that the Government no longer entertains the purpose to construct the Navy Yard, and reminding the Government that by the Act of June 15, 1844, it had invited donations for this purpose; that they had made the donation accordingly; and as the purpose was now abandoned the property should be restored to them; the reply is,—your property has already been appropriated to this purpose within the meaning of your deed; you have no further right in, or claim over the property; the Government has the right, and will exercise it, to give it away to whom it pleases, and so as to forever preclude you from its enjoyment! Is not this simple statement, of itself, sufficient to cause a Court of Justice to repudiate such a construction?

In support of the construction of this clause for which we contend, we refer to the following substantially analagous cases.

Police Jury vs. Rives, 6 Martin La. N. S. 221.
Daniel vs. Jackaway, 1 Freeman. Ch. (Miss.) R. 59.
Hayden vs. Stoughton, 5 Pick. 528.
Sturveysant vs. Mayor &c. New York, 11 Paige, 414.
Com: vs. Fisk, 8 Met., 240.
Austin vs. Camb. Parish, 20 Pick., 215.
Thorn vs. Cole, 3 Edw. Ch. R. 330.
Jones & Baker vs. N. & N. W. R. R. Co., 2 Cold. R. 575.

And as to the meaning of the word "appropriated" in this connection, see

Henry vs. Dubuque and Pacific R. R. Co., 2 Clark (Iowa) R. 288.
Boston & Lowell R. R. Co. vs. Lowell R. R. Co., 2 Gray.
Barcklay vs. Howell's lessee, 6 Peters, 498.

Assuming that it was appropriated within the meaning of the parties, upon the subsequent abandonment by the United States it revested in the original donors, and the defendants *in error* held it in trust for their co-tenants; and the original trust relations precluded them from holding it otherwise.

Hill, in his work on Trustees, says:

"there is no equitable principle more firmly established than that when a "voluntary disposition of property by deed is made to a person as trustee, "and the trusts fail by lapse of time, *or otherwise*, the interest will be held "by the trustee, not for his own use, but as a resulting trust for the donor

"himself, for his heirs at law, or next of kin, according to the nature of the "estate." p. 179.

and see Armstrong vs. Campbell, 3 Yerg., 236, 237, and authorities there cited.

UPON THE STATUTE OF LIMITATIONS.

The city cannot rely upon any adverse possession in the United States: because,

1st. The United States could not be sued:

1 Kent, 297, note.

Nor could its officers in possession of the yard.

Ib. 297, note e.

In order to put the statute in operation there must be parties capable of suing and being sued.

Graham vs. Nelson, 5 Hump., 605–611.

2nd. The United States did not hold adversely to the trust it had assumed when it accepted the donation; a rope-walk is an adjunct of a Navy Yard, and its construction was in the line of the undertaking.

But even if the statute had run in favor of the government, coming back into the hands of one of the original tenants in common, this tenant in common could not set up such adverse holding by the government against a co-tenant.

Armstrong vs. Campbell, 3 Yerg., 236–237.

This Act of August 5, 1854, was not notice to plaintiffs *in error*. Private Acts of Parliament are not notice.

Earl of Pomfert vs. Lord Windson, 2 Vesey, 480.
10 Jr. Eq., 167.
3 B. & P., 578.

But conceding it was notice, if our view of its construction is sound, being a restoration, and the original trusts having consequently re-attached, the city stood in such trust relation to plaintiffs *in error* that to put the statute of limitations in operation, it must not only hold adversely, but bring home notice thereof to the plaintiffs *in error*.

Possession of a tenant in common must not only be adverse, but

the adverse holding must distinctly be brought home to his co-tenant.

Wilson vs. Watkins, 3 Peters, 47–42.
Bourne vs. Childs, 10 Peters, 283.
Teller vs. Eckhart, 4 How, 289.
Gripe vs. Marcy, 39 N. H., 445.
3 Gray, 1.
31 Ver., 162.
7 John. Ch , 576.
3 Head, 698.

In Marr vs. Gillam, 1 Cold. (Tenn.) R., 497–506, it is said,

"It is a very nice and difficult question to determine whether, and at what time, such adverse possession on the part of the *cestuy que trust* has been actually acquired:"

And that the possession will be presumed to be consistent with the rights of the other parties "unless by *demonstration plain* it is "shown to be otherwise:"

And that "the sole silent occupation by one, of the entire property, *claiming the whole, and taking the entire profits without account to, or claim by the others*, accompanied by no act which can amount to an ouster, or give notice to his co-tenant that his possession is adverse, cannot be construed into an adverse possession." "And the doctrine of an adverse possession is to be taken strictly, and must be made out by clear and positive proof, and not by inference; every presumption being in favor of a possession in subordination of the title of the true owner."

This enunciation is fully supported by the authorities.

Henderson vs. Amesly, 2 Sch. and Lefroy, 607.
Jeremy Eq. Ju., 142–512.
1 Jacobs and Walker, 68.
Angel on Lim., 136, Sec. 468.
15 Vesey, 226.
2 Vesey and Beams, 329.
4 Maddox, 143.
1 Swanston, 52.
Cholmondelay vs. Clinton, 2 Merivale, 93.
Beckford vs. Wade, 17 Vessey, 87–96–97.
1 Sch. and Lefroy, 397
1 Vernon, 60–144.
2 Atk., 631.
Haynie vs. Hall's Ex., 5 Hump., 292–3.

There is not the slightest proof of anything of which it can be

claimed that complainants must have had notice beyond the fact of the possession of the property and the reception of the rents and profits by the city; and there is not a particle of proof of actual notice of these. It will not be pretended that any notice of adverse holding, if there ever were such, was at any time brought home to any of these complainants.

Again:

The *onus* is upon the defendants to establish the adverse holding. There is no proof at all on the subject in this record, unless the extracts from the proceedings of the Board of Mayor and Aldermen of the city of Memphis can be so regarded. We deny that the city can establish this defense by its own records alone; but suppose it can. The proceedings of the Board do not show any adverse holding (waiving for the present, what we have already adverted to, the entire absence of notice to complainants,) previous to July, 1855, even if there were evidence of such holding then, which we deny.

The question of acceptance of the Navy Yard was, by the Board at its meeting on the 22d August, 1854, deferred to the 23d October, 1854. Record p. 117. On 23d October, 1854, they disclaim all purpose of holding to their own use. Record page 118. Soon after, an appeal is made to Congress by the Board to take the works back, and Congress having refused, the Board, on the 8th April, 1855, assert a purpose to take possession as soon as the Secretary of the Navy can have the articles belonging to the Government removed.

Record, p. 43.

July 10, 1855, the Board direct the Mayor to inform the Secretary of the Navy that the property will not again be tendered.

Record, p. 52–3.

And July 17, 1855, is the earliest indication in any of the proceedings of the Board, of actual possession with assertion of ownership.

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The statute of limitations in Tennessee in this class of cases, is seven years.

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The statute of limitations in Tennessee in this class of cases, is seven years.

If it were admitted that the statute was put in operation 17th July, 1855, the seven years would expire 17th July, 1862.

The President's Proclamation declaring Tennessee in insurrection, was of date the 16th August, 1861.

The proclamation declaring Peace was of date 20th August, 1866.

On the 22nd February, 1865, the Amended Constitution of Tennessee arrested the operation of the statute of limitations from the 6th May, 1861, until such time as the Legislature should again put it in operation. The Legislature subsequently passed an act declaring that the suspension should continue until the 1st of January, 1867.

So that as to all the complainants who were residents of loyal States,—and a majority of them were such,—this defence fails.

Record, p. 196–207.

This is no longer an open question in this Court.

Hanger vs. Abbott, 6 Wallace, 532.
The Protector, 9 Wallace, 687.
Levy vs. Stewart, 11 Wallace, 244.

Even if the statute had commenced running 3d October, 1854, when the city made formal acceptance, Record page 121, (though in their proceedings they declaim ownership as we have seen,) it would be less than seven years until 16th of August, 1861, the date of the Proclamation as to Tennessee.

As to Annie and Hugh Brinkley, it had no operation. The former attained her majority 17th January, 1866; the latter, 13th August, 1862, or 1863—the Record is not definite.

See Record, page 208.

So that, as to them, the statute was running the 22d February, 1865, the date of the Amended Constitution of Tennessee, and, as we have seen, remained suspended until January 1st, 1867.

As to the complainants who were residents of Tennessee, the closing of the courts would suspend the running of the statute between citizens of this State.

Neely vs. Lester, Supreme Court of Tennessee, December Term, 1871, not yet reported.

They were closed before the permanent occupation of Memphis by the Federal forces, June 6th, 1862.

But we rely with such entire confidence upon our first proposition in regard to the holding by the city, viz: that there never was that character of adverse holding which the law requires in cases of persons standing in the trust relation which the city sustained to these complainants, that we hardly suppose that the Court will find occasion to consider the suspension of the statute by reason of the war, and of the several proclamations, provisions of the State Constitution and statute, to which we have made reference.

J. B. HEISKELL, GANTT and SCOTT,

For Plaintiffs in Error.

In the Supreme Court of the United States.

DECEMBER TERM, 1872.

THOMAS MURDOCH, *Plaintiff in Error*,
vs.
THE MAYOR, &c., OF MEMPHIS, *et al.* } No. 106.

BRIEF FOR THE CITY OF MEMPHIS, A DEFENDANT IN ERROR.

This cause comes up by writ of error to the Supreme Court of the State of Tennessee, under the 25th section of the judiciary act.

The Case.

This was a bill in equity filed by the plaintiff in error in the chancery court of Memphis, Tennessee. The bill makes this case:

On the — day of July, 1844, a number of parties, by deed of that date, conveyed certain lands within the city limits of Memphis to the municipal corporation of that city for the location of a naval depot of the United States, which depot is expressed in the recitals of said deed to have been lately established at the said town. (Record, pp. 9-10.)

The deed is an ordinary deed of bargain and sale, without any covenants or declaration of trust as to the said city of Memphis.

By the same instrument the same grantees conveyed to one Wheatley certain other lands not intended to be conveyed to the United States, as to which other lands certain trusts are limited and declared, which are not important to be considered in this case, but the deed further pur-

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ported to convey to the said trustee upon the same trusts, "also that part of the said alluvial land mentioned and "designated for the naval depot in case the same shall not "be appropriated by the United States for that purpose." (Record, pp. 9-10.)

Congress had previously, by an act of June 15, 1844, 5 stat., 665, authorized the establishment of a naval depot at Memphis, and made an appropriation of $100,000 for the purpose.

On the 14th of September, 1844, the mayor and aldermen of Memphis, in consideration of the sum of $20,000 paid by the United States, conveyed said land and, it seems, other land also, to the United States with covenant of general warranty. (Record, p. 29.)

There is in this deed to the United States no designation of any purpose to which the land was to be applied, nor any conditions precedent or subsequent, or of any kind whatsoever.

The United States took possession of the land, erected buildings, and made various expenditures and improvements for that purpose; but about ten years after, to wit, by an act of Congress approved August 5, 1854, 10 Stat., 586, transferred the land to the city of Memphis. (Bill, Rec., p. 4.)

There is no allegation in the bill that the city was in any way instrumental in procuring this transfer or the abandonment of the site as a naval depot; on the contrary, it is averred that the city authorities endeavored to prevent both. (Record, p. 5.)

The bill further charges, that by the failure of the United States to appropriate the land for a naval depot, and the final abandonment by the United States of any intention to do so, the land comes within the clause of the deed of July, 1844, conveying it to Wheatly in trust; or if not, that it is held by the city in trust for the original grantors, and in the prayer for relief seeks to subject it to said trusts. (Rec., p. 8.)

The answer of the defendants asserted that the land had been appropriated by the United States as a naval depot within the meaning and intent of the deed of July, 1844, and that the subsequent perpetual occupation of it was not a condition subsequent; and consequently that the abandonment of it as a naval depot was not a breach of a condition such as divested the title so conveyed by said deed.

The defendants further set forth that the United States and the city, as their vendee, had been in possession more than twenty years, and pleaded and relied on the Statute of Limitation, and especially sec. 2763–4–5 of the Code.

The defendants also demurred to the bill as seeking to enforce a forfeiture for breach of condition subsequent. (Record, p. 18.)

The complainants replied, proofs were taken, and the cause went to hearing. The court sustained the demurrer, and also decreed that the city had a perfect title to the property against the complainants both under the act of Congress and the Statute of Limitations, and dismissed the bill. (Record, p. 208.)

On appeal to the Supreme Court of Tennessee the decree was affirmed on the 7th of June, 1870. (Record, p. 209.)

On the 30th of June, a petition for rehearing was filled. (Record, p. 210.)

On the 5th of July the said petition was refused. (Record, p. 210.)

On the 6th of July, the decree heretofore rendered in this cause is modified by inserting the following recital: "This court is of opinion, and does declare that the act "of Congress. approved August 5, 1854, cedes the prop- "erty in controversy in this cause to the mayor and alder- "men of the city of Memphis, for the use of the city only, "and not in trust for the complainant; and that the com- "plainants take no benefit under said act." (Record, p. 210.)

The complainants thereupon sued out a writ of error to this court.

POINTS.

I. *This court has no jurisdiction of the cause. First.* The only question which could give jurisdiction to this court, is the construction of the act of 1854, but if that question was in the cause, the decision of it was not at all necessary to the decision of the cause, and, on the contrary, it appears that whatever might have been decided to be the construction of that act, it could not have affected the decree.

(*a*) The defendants demurred to the bill upon the ground that it sought the aid of the court to divest an estate and to enforce a forfeiture for breach of condition subsequent. (Record, p. 20, fol. 56.)

This demurrer was to the whole bill and being sustained by the court, disposed of the whole case. Record, p. 208, fol. 520.

(*b*) The defendants further pleaded the Statute of Limitations, and the cause being heard upon the merits, the court ruled that the defendants had a good title under the said statute. Record, p. 509, fol. 520.

This alone disposed of the whole case.

Second. No right or title was set up under the act of 1854, and so the construction of that act was not drawn in question.

The scheme of the bill was this: that the land was conveyed to the city upon trust to be held until appropriated by the United States for a naval depot, and if not so appropriated then to be held by Wheatley in trust for the grantors.

And the complainants charge: "That by the failure of "the United States to appropriate the said premises to the "purpose intended, and by the final abandonment of any "intention on the part of the United States ever to do so,

"the said property comes within the operation of that "clause of the said deed of compromise which provides "for the same being vested in J. Wheatley," &c., &c. (Record, p. 5.)

The bill alleges that "the United States disappointed "the reasonable expectations of all the parties by taking "the property for a time into use as a situation for a naval "depot, erected buildings upon the same, and made vari- "ous expenditures and improvements * * but before "any of the objects for which said deed was made had "been answered, before the property of the proprietors "had been materially increased in value, &c., * * * * "they abandoned the same, and ceded the property back "to the city of Memphis."

In this bill the act of Congress is referred to solely as evidence of the abandonment of the property by the United States, and that the further maintenance of the depot at that place was discontinued. No title in themselves is set up by complainants under the act of Congress. They rest their title upon their own deed and upon nothing else.

Nor does it anywhere else in the case appear that complainants claimed anything under the act of Congress.

The recital in the decree that the complainants take no benefit under the act does not bring the case within the purview of the 25th section, because it is not stated that the complainants ever claimed any title under it, and the language does not necessarily imply that they did. The language of the court means simply that the city took title under the act of Congress for its own use, and not in trust for any one else.

That this ruling had no effect upon the case is evident from the recital of the proceedings above. In those proceedings it appeared that the case was decided upon three grounds separate and distinct from the act of Congress; that the court adhered to these rulings and refused a petition for rehearing, and then subsequently added an addi-

Klinger v. Missouri 13 Wall 263.

tional ruling, giving an additional ground for refusing relief. If this last ruling above can give this court jurisdiction, jurisdiction might be given it in every case by the court below declaring in such case, that some act of Congress which had nothing to do with the matter gave no rights to the losing party.

The settled rule of this court is that to give jurisdiction of a right claimed under an act of Congress there must be an actual and veritable claim of title under such authority. And even where there is such claim made under federal authority, still if there be other grounds upon which the decree of the State court could rest, the court will not take jurisdiction. And so this court decided in the case of Gibson *vs.* Choteau, (8 Wall., 314.) In that case there were other questions in the record on which the judgment of the State court rested, independently of the federal question, and on that ground this court refused to revise the judgment, and the writ of error was dismissed.

We submit that in this case, and upon this ground, the writ should be dismissed.

II. *But if any right was claimed by complainants under the act of* 1854, *it was properly denied by the decree.*

(*a.*) The city holding the land in trust, in pursuance of said trust, conveyed the same to the United States by an absolute deed for valuable consideration, and the United States afterwards transferred the land back to the city by a statute not purporting to convey upon any trust. If the city holds the land upon any trust it is clear the trust is not created by or derived from the act of Congress, but from the previous deeds and conveyances.

A, holding land upon trust, conveys to B by an absolute deed, and B, by a similar deed, conveys to C; the question whether C takes the land subject to any trust depends upon the previous conveyance, or upon actual notice of some other trust not therein expressed.

When, therefore, the court decreed that "the complainants take no benefit under said act," the decree was correct whether the complainants had or had not the right they contended for; for even if they had such right they had it not under the act of Congress, but under the deed of 1844.

(*b.*) But we submit that there was no condition subsequent attached to the land in the hands of the United States. If there was any condition affecting the United States, it was a condition precedent. (Wilson *vs.* Galt, 18 Ill., 431.)

By the terms of the grant to Memphis the land was to be conveyed to the United States if the naval depot should be established on that site. Congress had already (so the deed recites) determined to establish a depot at Memphis, and it only remained to select a site; and the deed of July, 1844, conveyed the land in question to Memphis for such site, if the United States should be willing to accept and appropriate it for that use. The United States performed the condition precedent, and became entitled to the conveyance of the land, and the condition when once performed was gone forever.

That there was no condition subsequent, we may learn from Coke, who says (Co., Litt., 203 b) that while certain words of themselves make a condition, others do not unless there be a right of re-entry reserved; and so "if A *pro* "*consilio impenso*, &c., make a feoffment or a lease for life of "an acre, or *pro unâ acrâ terræ*, &c., albeit he denieth "counsel, or that the acre be evicted, yet A shall not re-"enter; for in this case there ought to be legal words of "condition or qualification, for the cause or consideration "shall not avoid the state of the feoffee." And, again: "If a man make a feoffment in fee *ad faciendum*, or *faci-*"*endo*, or *ea intentione*, or *ad propositum*, that the feoffee "shall do or not do such an act, none of these words make "the state in the land conditional, for in judgment of law

"they are no words of condition," &c. And so here had the grantors directly given the land to the United States for a naval depot, when the United States had once in good faith appropriated it to that use, the consideration would have been given, and the subsequent failure of the consideration would not have divested the estate.

And, by the same reasoning, when the land was once conveyed to Memphis for a naval depot, and had been in good faith once so appropriated, the consideration was executed and the estate vested.

The only ground upon which the jurisdiction of a court of equity could be maintained in a case like this, would be that there was a trust created by the conveyance to Memphis. If it was a condition, and not a trust, a common law court would be the appropriate forum. But if there was such a trust, it is created by the deed itself. It is not pretended that there was any other instrument by which any trust was created. And looking at that deed by itself it appears that the only trust there was to hold until it should be determined whether the land was or was not to be taken for a naval depot; if it was, then to convey to the United States; if not, then to convey to Wheatley, to be held upon the trusts declared as to the other lands, and that when the United States were willing to accept the land as the site for the depot, the city was bound to convey, and having conveyed the trust was discharged, and at an end. But not only did the United States accept the land, but they actually devoted it to the purpose for which it was conveyed, and for some years maintained an establishment on the site.

It is hardly necessary to suggest that if the grant to the United States had been hampered with a condition subsequent it would have been against public policy, and indeed would have defeated its own object, for the Navy Department surely would not have improved the property and erected expensive buildings on lands which could not be

diverted to any other purpose whatever might be the necessities of the public service.

The grantors could reasonably only have required that the lands should be appropriated to that purpose, and in fact only did so require, trusting that the advantages of the location and the exigencies of the public service would maintain the depot there. That their expectations have failed is no ground in law for divesting the estate.

In the case of Van Ness *vs.* The Corporation of Washington, (4 Peters, 232,) the following case was presented:

Certain proprietors of land, constituting the present site of Washington city, desiring to have the capital of the United States located on their lands, entered into an agreement whereby in the event of such site being selected certain portions of the lands were to be designated by the President and laid off for public improvements and other public uses, and the rest of the lots were to be divided between the proprietors and the Government.

The proprietors subsequently conveyed the lands to certain trustees to be conveyed to the Government in pursuance of the said agreement, declaring the trust to be that the lands should be laid out into streets, squares, &c., and that such of the squares as the President should deem proper for the use of the United States should be conveyed to the United States for their use forever, and the residue to be divided, &c. Subsequently the United States donated to the city certain of the squares so laid off for the use of the United States with power to sell the same. The heirs of the proprietors claimed that this was a diversion of the land from the purpose for which it was conveyed to the Government; that it was part of the original compact and trust that these lands should be held by the United States for public improvements and other public uses, and that the land was clothed with a perpetual condition or trust not to be appropriated to any private use or changed from their original public purpose, and upon such change or

appropriation, the title reverted to the original proprietors, or at any rate, was to be divided between them and the Government, like the other squares.

The court after considering many of the peculiar circumstances of the case and the various contingencies that might occur, in view of them said: "A prohibition "which should forever close up the legislative power of "Congress upon such a subject, under all circumstances, "ought not lightly to be presumed nor readily to be ad- "mitted." (P. 282.) And as to the merits of the case, pro- "ceeded: "If the case had stood solely upon this prepara- "tory agreement, as an executory contract, there might have "been stronger grounds to impose limitations upon the grant "of the streets and public reservations. The language of "the instrument is that the President may retain any num- "ber of squares he may think proper for public improve- "ments or other public uses, yet even then the appropria- "tion of these squares for public uses would not necessa- "rily carry with it an implied obligation that they should "forever remain dedicated to those uses and to none other. "If such had been the intention of the parties, we should "naturally expect to find there some direct expression of "it, some acknowledgement of the obligation, or some "condition carrying it to such a political mortmain. If "the stipulation was so important and valuable, as is now "contended for, and constituted a permanent object of so- "licitude, it would scarcely escape the notice of the pro- "prietors in laying down the fundamental basis of their "cessions. If it did then escape them, we should have rea- "son to look for its incorporation into the more solemn "instruments which were contemplated thereafter to be "executed by the parties, and were, in fact, executed by "them in fulfillment of their original agreement, but no "such stipulation is there to be found."

That case is almost on all fours with this. The purpose of inviting the location of a great public improvement,

the maintaining of certain lands in the possession of the United States in the expectation that such possession would render the adjacent lands valuable, the conveyance of the land to trustees, and their conveyance to the United States and the subsequent donation of the lands to the city to be devoted to private uses, are identical in both cases; the language of the original instrument is nearly identical, and in its material points is identical, and the construction given by the court in that case we submit should be given in the present case.

Conclusion.

We submit that the decree should be affirmed.

J. M. CARLISLE,
J. D. McPHERSON,
For Defendant.

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IN THE

Supreme Court of the United States

THOMAS MURDOCK, et al

vs.

The Mayor and Aldermen of Memphis, et al.

BRIEF OF

ESTES & JACKSON

FOR THE DEFENDANTS IN ERROR.

MEMPHIS.

H. Wade & Co., Printers and Stationers, 297 Main Street.

1873.

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BRIEF OF

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FOR THE DEFENDANTS IN ERROR.

The theory of the case, as presented in the statement by counsel for plaintiffs in error in their Brief, is denied, and the existence of the relation of tenants, in common, between these parties, is also denied.

I.

The first assignment of error by the plaintiffs in error, is *the assumed* misconstruction of the act of Congress of August 5th, 1854, which is quoted in the brief of adverse counsel, and which will be found on page 116 and 212 of the record, and upon this point alone the jurisdiction of this Court is sought to be sustained.

It is submitted that the terms of this statute are so plain and unambiguous that there is no room for construction.

The effort of counsel is, however, to *create* a doubt upon the construction of the act by starting the inquiry, whether Congress meant by its provisions to make a "*gift*" of the property to the city, or simply to "*return*

or restore it." The plain language of the act would lead inevitably to the conclusion that it was a gift to the Mayor and Aldermen of Memphis," *for the use and benefit of the city.*" But counsel demonstrate from the debates in Congress, that the members of that body were laboring under the erroneous impression that the city of Memphis was the donor, and *the only donor* of the property and were ignorant of the compromise deed, etc. This seems to be an unfortunate circumstance to be urged by adverse counsel, to prove that Congress did not intend by the act *to give* the property to the city, but simply to return it to be held upon original trusts. If the act was passed upon the idea that the city was the "*only donor,*" Congress could not have contemplated anything more than a *gift* to the city; and certainly could not have had in view the rights or equities of other parties.

Counsel next undertake by argument to eliminate from the statute the words "for the use and benefit of said city." Thus, in an earnest inquiry after the meaning of the Legislature, the effort is made to reject the language which makes that meaning plain, and in an effort to determine *for whose benefit* a cession is intended, the simple language of the act which declares *that benefit* is sought to be expunged. Without these words, it is insisted that the act is clear of doubt, but with them it is too plain for argument. Much stress is laid upon the meaning of the word "ceded" which is employed in the act. According to the definitions quoted by counsel it means, "given up" "to relinquish and grant." A gift may certainly be well made by the use of the words "I give up," or "I relinquish or grant."

In the next place counsel seek to ascertain what was the real intention of Congress in this act, by bringing to bear upon it the light of contemporaneous circumstances, and the history of the transaction. After it has been shown and conceded that Congress supposed that the city was *the only donor*, and was ignorant of the history of the transaction, we submit that the light of that history would afford but slight assistance in determining what the real intention of Congress was. The influence of facts of which Congress was ignorant, could not have operated very powerfully upon it in passing this act.

The supposed amibguity in the act arising from the definition of the word "ceded" and the proposed construction of said act of Congress are the grounds upon which the jurisdiction of this honorable court is attempted to be sustained. By reference to the opinion of the majority of the Supreme Court of Tennessee in this cause (reported in 7 Cold. 484,) it will be seen that the construction of this act of Congress is not even suggested, and that the court experienced no difficulty in determining whether by that act the property was *given* or merely "*returned, or restored*;" for the question is not stated or discussed.

We submit therefore that Congress did not intend by this act to "*return or restore*" this property to the city, in the sense contended for; but manifestly assuming that the United States was, and had been for years the *absolute owner* of it in fee simple, under a deed from the city conveying it for *a valuable consideration* Congress *intended* to *donate and give* it the city for it's use and benefit.

But if Congress did intend by the act to *return* the property, the trust contended for in the first assignment of error did not exist.

It will be hereafter shown that the only trust imposed upon the city by the compromise deed, was to convey the property *absolutely and unconditionally* to the government, and that when that was done the trust was fulfilled.

But the doctrine contended for, does not apply, for other reasons.

First, The compromise deed was made upon the consideration of a "compromise of conflicting titles" which *was a valuabe consideration.*

2 Wash on R. Prop. 437.

1 Par. on Con. 363.

It was not *a gift* to the city *without consideration, for particular purposes*, and it does not *clearly appear* from the deed that "the donee was intended to take only in a *fiduciary capacity*," but the contrary.

"When there has been a valuable consideration in a conveyance, there will be no resulting trust to the grantor, on the failure of the trust."

Hill on Trustees, p. 201., N. 1.
7 B. Monr. 481.
9 N. Y. Rep. 219.

Second, the trust did not arise because the interest, *ultra the purposes* expressed, is "otherwise disposed of," by the limitation to Wheatley.

Hill on Trustees, pp. 201 and 204.
2 Wash. Real Prop. 437, 440.
9 Foster, (N. H.) Rep. 129, 146.

Third, By the terms of the compromise deed, the proprietors received one half of proceeds of sales of property south of Market street, and the city received $20,000 consideration from the Government for the conveyance.

This was no voluntary deed.

If the act of 1867 is so construed by this court as to involve the discussion and decision of all the questions made in the cause, we proceed to answer the other assignments of error.

II.

THE CONSTRUCTION OF THE COMPROMISE DEED—RECORD P. 9 ETC.

What estate or title did the city take under this deed *in the first instance?*

The property was conveyed "for the location of the Naval Depot aforesaid." The Government was to locate the Naval Depot and not the city.

Hence the evident intention was to give the title to the city, in order that it should convey it to the Government.

It was not a trust imposed upon the city to convey to the Government *upon conditions*, but *absolutely* as was done.

This is evident.

1st. Because the deed imposes no such trust in terms, nor by implication.

2d Because the record shows that it was the known policy of the Government, not to accept titles to property with conditions.

Record p.p. 13 and 143, 123, 125.

3d. Because in May, 1843, the City Council authorized the Mayor to convey the property to the United States, *so long as it should be used as a Navy Yard, etc.*, and the Government failed to accept.

Record p.p. 163 and 164.

4th. Because on 14th of Sept., 1844, (only two months after the date of the compromise deed,) the city conveyed the property *absolutely* and the other parties acquisced in it.

5th. Because one of the considerations recited in the deed, was to withdraw the property "from all litigation, *so that no obstacle shall stand in the way of the immediate commencement of the public work, etc.*"

These considerations show, that the parties did not intend to impose conditions upon the Government which might defeat the great object to be accomplished.

It being clear therefore that the city was simply *the medium* through which the property was conveyed to the Government, the next inquiry is: What estate did the Government acquire through the compromise deed and the conveyance from the city. The property is conveyed "for the *location* of the Naval Depot aforesaid," and by a subsequent clause of the deed, it is conveyed to Seth Wheatley as trustee "in the case, the same shall not be *appropriated* by the United States for that purpose." This is a conveyance *upon conditions subsequent*, and upon a breach of the condition, *a conditional limitation* is made to Seth Wheatley.

4 Kent, 130, 132, etc.
2 Tucker, Blackstone, 89.
1 Preston on Estates, 40 and 41.
Mead vs. Ballard, 7 Wall. 294.
2 Wash. on R. Prop. p. 578.

By the plain language of the deed, and when examined in the light of "surrounding circumstances," *this condition* was, that the United States should *select and use* the property as a Navy Yard, and the condition was satisfied and fulfilled as soon as the Government *selected this site* and certainly after $800,000 was expended on it, and it had been used and recognized as a Navy Yard, as shown in this record.

The controlling words of the condition are "*location*" and "*appropriate.*"

See Webster's definitions of these words.

The deed also recites: "And whereas, the *location* of the Naval Depot *established* by the United States at said town." In what sense now had the "*location*" been "*established*" at Memphis at the date of this deed?

Congress, by the Act of June 15, 1844, had designated Memphis, and authorized the President to select a site for the Depot. If the parties understood that *this act of Congress "established"* the *"location"* of the Depot at Memphis by simply *selecting or designating* that town, surely they meant by the word *"location"* on this particular tract of land, a *mere selection and use* of it for that purpose.

"The surrounding circumstances" confirm this construction. These are arrayed by Judge Andrews in his opinion in 7 Cold. 501, etc.

The following authorities sustain this construction of the deed.

Mead vs. Ballard, 7 Wall. 290.
Seebald vs. Shitlon, 34 Penn. Rep. 133.
2 Wash. on Real Prop. p. 4.

The purpose of this bill is to establish and enforce a condition working a forfeiture of an estate. This cannot be done by inference or argument.

4 Kent, p. 132.
2 Cold. Rep. 575.
2 Ohio N. S. 380.

III.

If the condition of the compromise deed was performed by the "location" or "appropriation" of the property, the title became *absolute*, and no such trust as that insisted upon in the 3rd assignment could arise. The authorities relied upon are not pertinent and have no application to this case upon the hypothesis stated. As already shown, this was not a *"voluntary disposition"* of the property, but a conveyance for a valuable consideration.

IIII.

The 4th assignment of error we submit has already been proven to be fallacious. If the condition of the deed was performed by the *"location"* of the Naval Depot as the record shows, then the title became abso. lute in the Government and was not "subject to be defeated by a future abandonment of the purpose."

Mead vs. Ballard 7 Wall. 290.
Seebold vs. Shitlon, 34 Penn. S. 134.

V.

The *statute of limitations* is pleaded and relied upon in the answer.

Record p. 21.

The 2763 Sec. of the Code of Tennessee, which is a re-enactment of 1st Sec. of the act of 1819, ch. 28, provides as follows:

"Any person having had by himself or those through "whom he claims *seven years'* adverse possession of any "lands, tenements or hereditaments granted by this "State or the State of North Carolina, holding by con-"veyance, devise, grant or other assurance of title, pur-"porting to convey an estate in fee without any claim "by action at law or in equity, commenced within that "time and effectually prosecuted against him, *is vested* "*with a good indefeasible* title in fee to the land de-"scribed in his assurance of title."

The bill charges that the city took possession on—— day of————*1854*, and has held the same ever since.

Record p. 5.

The answer admits the charge of the bill, except that Federal Military authority seized and held portions of it during the war.

Record p. 20.

The proceedings of the Board of Mayor and Aldermen, show the acceptance of the property from the Government, the possession, etc.

Record p. 48 &c., 121, 144.

The property is mortgaged by the city on 10th May, 1857.

Record p. 109 &c.

The only testimony upon this point is, the deposition of David Parkinson, which shows that in 1866 the Government held parts of the property *for military purposes*, but not so as to break the continuity of the city's possession.

Record p. 188.

So that in the fall of 1861, seven years possession by the city were completed. The property formally received by the city on 3d October, 1854.

Record p. 121.

The seven years possession completed in the fall of 1861, therefore vested the city with "a *good and indefeasible title* in fee simple," unless there is something to prevent the operation of the statute.

Love vs. Love, 2 Yerg. 288.
Brown vs. Johnson, 1 Hump. 261.
Wallace vs. Hanner, 1 Hump. 443.

There is no *tenancy in common* as claimed by adverse counsel, but if there was, the possession was taken under the act of Congress, the property held notoriously under a claim to the entire property, the rents received, a mortage by the city, and that registered, and all of these public acts acquiesced in.

Hilton vs. Duncan, 1 Cold. 314.

It is true that some of the complainants were residents of loyal States, and that under the doctrine of Hanger vs. Abbott, 6 Wall. 532, the running of the statute might have been suspended as to them, on 16th August, 1861. But the city of Memphis was permanently occupied by the Federal forces on 6th June, 1862, and from thence up to 31st March, 1863, commercial intercourse between the inhabitants of that city and the loyal States was not prohibited. *The Venice* 2 *Wall.* 259.

This record does not show whether the Courts were opened at Memphis or not during this period. It would devolve upon the plantiffs in error to show that they were not open, as they are seeking an exemption from the operation of the statutes.

Again by order of the War Department, dated March 3d, 1862, Andrew Johnson, was appointed Military Governor, of Tennessee, and empowered to establish "all necessary offices, *tribunals, etc.*"

3 Cold. 561.

Judges were appointed and held Courts in Memphis, and elsewhere in Tennessee, during 1864, and the Federal Court was organized and opened in March, 1864.

This period of time added to that which elasped before August 16th, 1861, would more than make the 7 years of possession.

The amended Constitution of Tennessee, of Feb. 22d, 1865, could not affect the right and title of the city, which *had vested prior* to that time. The Supreme

Court of Tennessee, has decided this identical principle, in Girdner vs. Stephens, 1, Heisk. Rep. 280.

See, also Henderson vs. Felker, Ibid. 271.
Townsend vs. Townsend, Peck (Tenn., Rep. 17.
Van Sant vs. Waddell, 2, Yerg. 260.
Sedwick on Stat. and Con. Law, 537 &c.
Taylor vs. Porter, 4 Hill, N. Y., 146.
3 Story on Con. 661.
Wynne vs. Wynne, 2, Swan, 409.
Fletcher vs. Peck, 6, Cranch, 135.

But, the Courts *in construing* this clause of the amended constitution will not give it a retroactive effect so as to take away or impair vested rights, if it will admit of any other construction.

Cooley Con. Lim. 62 and 63.
Sedwick vs. S. and Con. Law, 407, 411.
Dash vs. Van Klench, 7, Johns. 450, 477.

VI.

A demurrer to the bill is incorporated in the answer, upon the ground that a Court of Equity will not lend its aid to divest an estate for the breach of a *condition subsequent.*

Record, p. 20.

This doctrine is settled by the following authorities:

4 Kent, 129, 134.
Livingston vs. Tompkins, 4, Johns. Ch. Rep. 415.
2 Story, Eq. Jur. Sec. 1319.
8 Paige, 351.
3 Paige, 246.

This is not an objection to the *jurisdiction* of the Court within the meaning of Sec. 4319 of Code of Tennessee, which provides that "A defendant is not required "to demur *except for the want of jurisdiction* of the sub- "ject matter or of the person, but he may have all the "benefit of a demurrer by relying thereon on his an- "swer." It is conceded that if this is an objection to the *jurisdiction* of the Court the defense is waived by the answer.

It is a demurrer *"to the matter of the bill"*, and not to the *jurisdiction.*

Story Eq. Plead. Secs. 466, 467, 499, *521.*

The illustrations given in the last Sec. clearly shows that this demurrer is "to the matter of the bill" and not to the jurisdiction. The demurrer was sustained by the Chancery Court.

Record, p. p. 208 and 209.

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